

(112) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM No.16877-C of 2018 and
RSA No.581 of 2016
Date of decision: 14.11.2018

Bodh Raj

... Appellant

Versus

Prem Paul alias Prem Lal and another

... Respondents

BEFORE: HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. S.S. Behl, Advocate for the applicant/appellant.

Mr. C.L. Ghai, Advocate with Mr. Vijay Kapoor
(respondent No.2) in person.

B.S. Walia, J. (Oral)

CM No.16877-C of 2018

Application has been filed for preponing the date of hearing of Regular Second Appeal as also for permission to withdraw the same as both the parties have entered into compromise i.e. Annexure A/1, copy of which is attached along with the application.

For the reasons as are mentioned in the application, the same is allowed. The date of hearing of the Regular Second Appeal is preponed to today and with the consent of learned counsel the same is taken on Board.

RSA No.581 of 2016

1. Learned counsel for the appellant states that the matter has been amicably settled amongst the parties by way of compromise, copy

[2]

of which is attached along with the application as Annexure A/1 and in view thereof, the appellant does not wish to pursue the appeal any further. In the circumstances, learned counsel prays for permission to withdraw the appeal.

2. Learned counsel for the respondents confirms compromise (Annexure A/1) having taken place amongst the parties as also of the respondents having no objection to the withdrawal of the appeal.

3. In view of the statement of learned counsel for the parties as well as compromise (Annexure A/1) which is taken on record, the Regular Second Appeal is permitted to be withdrawn. Decree sheet be drawn up accordingly.

4. In the light of the position as noted above, learned counsel appearing for the appellant request that in view of the appeal having been withdrawn on account of compromise (Annexure A/1), appellant should be refunded the court fee paid before this Court. In support of the plea for refund of court fee, learned counsel relies on a decision of this Court in case titled as Rajinder Singh vs Jaswinder Kaur and other decided on 07.12.2017 in CR No.3428 of 2017. Relevant extract of the same is reproduced as under:-

‘Thus, whether settlement of the dispute is by way of compromise with the permission of the Court or amongst the parties by themselves in terms of Section 89 of the CPC or otherwise, invocation of Section 16 of the Act should be made so that settlement by way of alternative dispute resolution mechanism gets an impetus.’

[3]

Accordingly, in view of the aforementioned facts and circumstances, the court fee paid by the appellant before this Court is ordered to be refunded.

5. At this stage, learned counsel for the respondents states that even the respondents had filed an appeal before the learned First Appellate Court in which he had paid court fee of Rs.45,305/- and that he should be allowed to get the refund the same.

6. Needless to mention, the respondents would also be at liberty to take out appropriate proceedings in respect thereto in accordance with law.

(B.S. Walia)
Judge

14.11.2018
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1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No