

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RSA No.4646 of 2015 (O&M)
Date of Decision: 23.10.2018.

Nazar Chand

...Appellant

Versus

Om Parkash and others

....Respondents

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

Present: Mr. B.S. Mittal, Advocate
for the appellant.

Mr. Dheeraj Narula, Advocate
for respondent No.1.

B.S.WALIA, J. (ORAL)

1. Appeal has been filed against judgment and decree dated 28.04.2012, passed by the learned Addl. Civil Judge (Senior Division), Fatehabad, as modified by the learned Addl. District Judge, Fatehabad, vide judgment and decree dated 11.02.2015.

2. Brief facts of the case leading to the filing of the instant regular second appeal are that the respondent/plaintiff filed a suit for recovery of ₹2,14,018/- as principal amount and ₹1,33,110/- as interest @ 18% per annum upto 30.03.2009 along with pendente lite interest @ 18% per annum till the date of actual realization.

3. The aforementioned civil suit was decreed by the learned trial Court. In appeal by the appellant/defendant, judgment and decree passed by the learned trial Court was modified by holding the respondent/plaintiff entitled to recover amount of ₹1,82,018/- as principal along with interest @ 6% per annum from 18.04.2007 till the date of realization. Against the

judgment and decree of the learned Addl. District Judge, Fatehabad, the appellant/defendant has come up in regular second appeal. During the pendency of the appeal, compromise dated 16.12.2017 is stated to have been arrived at amongst the parties, as per which, the appellant/defendant has agreed to pay amount of ₹2,14,018/- to the respondent/plaintiff in full and final settlement of his claim and the respondent/plaintiff has agreed to relinquish his other claims in the aforementioned litigation and also stated that he has no objection in case the regular second appeal filed by the appellant/defendant is decided in terms of the compromise. Learned counsel for both the parties further pray for refund of court fees paid in the litigation in view of the appeal having been withdrawn on account of compromise. In support of the plea for refund of court fee, learned counsel rely 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.’

4. In view of the position as noted above, the regular second appeal is allowed in terms of compromise dated 16.12.2017. Judgment and decree dated 28.04.2012 passed by the learned Addl. Civil Judge (Senior Division), Fatehabad as also judgment and decree dated 11.02.2015, passed

by the learned Addl. District Judge, Fatehabad are modified in terms of compromise. Decree sheet be drawn up accordingly. Court fee paid by the parties in the litigation be refunded as per law.

5. Appeal is allowed in aforementioned terms.

(B.S.WALIA)
JUDGE

23.10.2018.
rajesh.k.khurana

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No