

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

CM No.12088-C of 2018 in/and
RSA No.347 of 2018 (O&M)
Date of decision : 02.08.2018

Harpinder Singh and another

.... Appellants

Versus

Balbir Singh and another

..... Respondents

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

Present: Ms. Dhivya, Advocate for the appellants.
Mr. Sherry K. Singla, Advocate for respondents.

B.S. WALIA, J. (ORAL)

[1] Respondent No.1-plaintiff had filed a Civil Suit before the learned Civil Judge (Junior Division), Patiala for possession by way of specific performance of agreement to sell dated 31.10.2008 executed by the defendants in favour of the plaintiffs qua house measuring 0 Bigha 4½ Biswa i.e. 30x68=226.66 sq. yards out of Khewat No.377, Khatouni No.764, Khasra Nos.514//2/2 (4-5) situated in revenue limits of village Alipur Araian, Tehsil and District Patiala as entered in the Jamabandi for the year 2003-04 along with electric connection, water connection, submersible pump and all rights attached thereto. Prayer was also for directing the defendants to execute sale deed and get the same registered in favour of the plaintiffs on the receipt of balance sale price of ₹ 5,50,000/- etc.

[2] Civil Suit filed by respondent No.1-plaintiff against the appellants/defendants was decreed on 20.04.2015 by the learned Civil Judge (Junior Division), Patiala. Appeal against the decision of the learned Civil

Judge (Junior Division), Patiala was dismissed by the learned Addl. District Judge, Patiala vide judgment and decree dated 17.11.2017. Aggrieved against the same, appellants/defendants filed the present Regular Second Appeal challenging the judgment and decree of the Courts below.

[3] During the pendency of the appeal, compromise dated 04.05.2018 was arrived at between the parties i.e. appellants/defendants and respondent No.1-plaintiff. Copy of the compromise is attached along with CM No.12088-CII of 2018 as Annexure A1. The same is taken on record and shall form an integral part of this order.

[4] Appellants/defendants in their joint statements recorded separately in Court today state that they have entered into compromise dated 04.05.2018 (Annexure A1) with respondent No.1-plaintiff and have paid full amount of ₹ 10 lakh in cash to him towards full and final settlement in terms of the compromise.

[5] Likewise, respondent No.1-plaintiff in his statement recorded separately in Court today, acknowledged receipt of ₹ 4 lakh in three instalments i.e. ₹ 1.00 lakh on 04.05.2018, ₹ 1.00 lakh on 14.05.2018 and ₹ 2.00 lakh on 02.07.2018 respectively and balance ₹ 6.00 lakh from the appellants/defendants in Court today in cash and in view thereof withdrawing the suit and praying for setting aside of judgment and decree dated 20.04.2015 passed by the learned Civil Judge (Junior Division), Patiala as also the judgment and decree dated 17.11.2017 passed by the learned Addl. District Judge, Patiala and further stating that he would move an application to withdraw Execution Petition filed by him before the learned Executing Court at Patiala qua the judgment and decree dated

20.04.2015 as upheld by the judgment and decree dated 17.11.2017 on the date fixed i.e. on 04.08.2018.

[6] Learned counsel for respondent No.1-plaintiff states that in terms of Clause V of the compromise/agreement (Annexure A-1), a sum of ₹ 5,50,000/- deposited in Court for the purposes of getting registry executed is to be refunded to him. On this, learned Counsel for the appellants/defendants on instructions states that the appellants/defendants would file an application before the Executing Court of their having no objection to the refund of ₹ 5,50,000/- to respondent No.1-plaintiff in view of the compromise.

[7] In the light of the position as noted above as also the statements of respondent No.1-plaintiff and appellants/defendants, CM No.12088-C of 2018 for disposal of the present Appeal in terms of compromise dated 04.05.2018 (Annexure A-1) is allowed.

[8] Accordingly, Regular Second Appeal is allowed in terms of compromise dated 04.05.2018 (Annexure A-1). Judgment and decree dated 20.04.2015 passed by the learned Civil Judge (Jr. Div.), Patiala dismissing the suit as upheld by the learned Additional District Judge, Patiala vide judgment and decree dated 17.11.2017 are set aside and the suit is dismissed as withdrawn.

[9] Decree sheet be drawn accordingly.

(B.S. Walia)
Judge

02.08.2018
amit

1. Whether speaking/reasoned

:

Yes/No.
2. Whether reportable

:

Yes/No.