

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No. 991 of 1989

Date of Decision: 09.01.2019

Surjit and another

.....Appellants

Vs.

Chiriya and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Sanjiv Gupta, Advocate,
for the appellants.

AMOL RATTAN SINGH, J. (ORAL)

Pursuant to the order dated 21.12.2018, Mr. Sanjiv Gupta, Advocate, appears and submits that though he was mistaken as regards the late Mr. P.N. Makani, Advocate, having appeared for Sh. N.K. Kapoor (then counsel for the appellants), whereas Mr. Makani had actually appeared for respondent no. 1 (plaintiff, i.e. Chiriya), however, he points to the order dated 20.07.1990, produced in Court today, passed in RSA No. 885 of 1989, the said appeal also having arisen out of the same judgments passed by the trial Court and the appellate Court, the suit being the same in any case.

The said order reads as follows:-

*“This appeal has been settled by compromise.
The compromise deed has been marked by me as C-1 today.
The same be made part of the decree. According to the
compromise, the appeal is allowed and the suit filed by the
plaintiff-respondent no. 1 Smt. Chiriya is ordered to be
dismissed. She has received a sum of Rs. 5,000/- in lieu of
compromise and dismissal of her suit. The parties are left to*

bear their own costs throughout.”

Learned counsel submits that though a compromise would seem to have been recorded in that appeal only, however, the order eventually goes on to say that the suit filed by the plaintiff (Smt. Chiriya) “is ordered to be dismissed”.

Though of course the question remains that if the suit was dismissed qua all the defendants, i.e. the appellants in the two appeals before this Court, (RSA No. 885 of 1989 and the present appeal, i.e. RSA No. 991 of 1989), why the same order was not recorded in the present appeal, yet in view of the fact that the aforesaid order does not say that the suit was ordered to be dismissed only qua the defendants as were the appellants in RSA No. 885 of 1989, the contention of learned counsel for the appellant is accepted, to the effect that the appeal is not being defended presently by the respondents because the entire matter had been compromised and the suit consequently dismissed.

In view of the above, this appeal is disposed of in the same terms as RSA No. 885 of 1989, as recorded in the order dated 20.07.1990, but with liberty to the respondents to move any application for review of this order in case the factual position, as has been inferred hereinabove, is otherwise.

January 09, 2019
nitin/dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No.