

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

**CM No.7167-68 C of 2019 in/and
Regular Second Appeal No. 4760 of 2011(O&M)**

Date of Decision: May 29 , 2019.

Raj Kumar

..... APPELLANT (s)

Versus

Gainda Devi through LRs and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Rakesh Kumar Sharma, Advocate
for the applicant/appellant.

None for respondents No.1(i) to 1(vii).

Mr. Jagdish Manchanda, Advocate
for respondent No.2.

Respondents No.3, 5 and 6 ex-parte.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

Present appeal has been filed by the appellant-plaintiff impugning the judgments and decrees dated 07.12.2009 and 25.04.2011 passed by the learned Additional Civil Judge(Senior Division), Faridabad and the learned Additional District Judge, Faridabad whereby suit for specific performance filed by the present appellant, was dismissed.

Learned counsel for the applicant/appellant submits that the appellant does not wish to pursue the present appeal as the dispute between the parties has been resolved.

There is also a prayer for refund of the court fee. Learned counsel for the applicant/appellant relies upon a Division Bench judgment of the Karnataka High Court in **A. Sreeramaiah v. South Indian Bank Ltd., Bangalore and another, 2007 (5) RCR (Civil) 374**, to submit that even though the matter has been amicably resolved between the parties amongst themselves without intervention of the Court or any arbitrator, conciliator or mediator, the court fee shall be refunded. It is observed by the Division Bench as under:-

“ As such, we are of the opinion that if the parties come forward to settle their dispute before the Court itself, they should not be denied of refund of Full Court Fees on the ground that they have not settled the dispute before any of the four methods provided under Section 89 of Civil Procedure Code. The object behind Section 89 is to encourage the parties to arrive at settlement and if that object is sought to be achieved by means of referring the matter to any of the four methods mentioned in Section 89, then even the settlement arrived at the earliest stage before the Court would also be one of the method provided under Section 89 of sub-section (1) : Hence, we feel it as just and appropriate to order for full refund of Court Fees in the case of parties settling their dispute before the court as well as before any of the Forum mentioned under Section 89 of the Civil Procedure code. No party should be discriminated in the matter of refund of Court Fees mainly on the ground that they have settled the dispute at the earliest stage before the court without recourse to any of the methods mentioned under Section 89 of the Civil Procedure Code. Hence, appellant is entitled for refund of Full Court Fees.”

A similar view has been taken in **Pritam Singh v. Ashok Kumar**

2019 (1) Law Herald (P&H) 721 and Pradeep Sonawat v. Satish Prakash @ Satish Chandra 2015 (1) RCR Civil 955.

Applications are, accordingly, allowed and appeal is dismissed as withdrawn. In view of the judgments as referred to above, I deem it appropriate to direct refund of court fees appended with this appeal to the appellant.

May 29 , 2019.
'om'

**(LISA GILL)
JUDGE**

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