

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

252

**Civil Revision No. 5905 of 2019(O&M)
Date of decision: 16.10.2019**

Satpal Puri

...Petitioner

Vs.

Amarnath

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Arun Jain, Sr. Advocate with
Mr. Vaibhav Sehgal, Advocate for the petitioner.

Mr. Aayush Gupta, Advocate for the respondent.

RAJ MOHAN SINGH, J.(ORAL)
CM No.20773-CII of 2019

Prayer made in this application is for preponement of
the date of hearing of the case.

Notice of this application was issued to learned counsel
for the respondent for today.

With concurrence of the learned counsel for the parties,
the main case is taken up today for final disposal.

Application is disposed of.

Main Case.

Defendant-petitioner has laid challenged to the order
dated 26.08.2019 passed by Civil Judge (Junior Division)
Ludhiana vide which recording of compromise and for disposal
of the suit and refund of Court fee was disposed of by observing
that relevant issue will be framed at the relevant stage for

consideration of the compromise in question on merits.

Learned Senior counsel for the petitioner states that the compromise was effected between the parties which was duly signed by the parties in the presence of the witnesses. If the execution of said compromise is proved before decision of the suit on merit, the vagaries of undergoing trial would be meaningless.

During course of arguments, both the learned counsel for the parties are ad-idem that the assertion and denial in respect of compromise made by the parties would be tested by the trial Court by way of framing relevant issue in the context of compromise and thereafter, both the parties shall lead evidence to prove the factum of compromise or otherwise on merits. The aforesaid exercise can be taken prior to disposal of suit on the basis of finding recorded under different issues. During course of arguments, learned counsel for the respondent states that respondent has no objection in case a preliminary issue is framed in respect of validity or otherwise of the compromise in question and the parties may be allowed to lead evidence prior to leading of evidence under other issues. Decision of the aforesaid preliminary issue will be of probative value in respect of validity and otherwise of the compromise.

In view of consensus made between the parties on the aforesaid context, this revision petition is disposed of by

directing the trial Court to frame a preliminary issue in the context of validity or otherwise of the compromise in question. Both the parties shall be asked to lead evidence on such issue and thereafter, trial Court shall proceed to decide the said issue on merits.

At this stage, learned counsel for the respondent has pointed out that an application under Order 39 Rules 1 and 2 CPC is also pending before the trial Court. I have no doubt that the trial Court shall also proceed to decide the aforesaid application at the earliest in accordance with law. The trial Court shall make every endeavour to decide the issue itself at the earliest by giving short adjournment.

Disposed of

October 16, 2019

Poonam Sharma

**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No