

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

**RSA No.1425 of 2018(O&M)
Date of Decision: 16.01.2019**

**Pritam Singh
Versus
Ashok Kumar**

.....Appellant

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Gurcharan Dass, Advocate
for the appellant.

RAJ MOHAN SINGH, J.(Oral)

[1]. Defendant has preferred the present regular second appeal against the concurrent judgments and decrees passed by the Courts below in a suit for recovery.

[2]. Plaintiff/respondent filed a suit for recovery of Rs.8,07,000/- along with interest on the basis of agreement to sell dated 19.01.2011. The suit was decreed by the trial Court vide judgment and decree dated 10.02.2016 and the plaintiff was held entitled to recover an amount of Rs.6,00,000/- along with interest @ 9% per annum from the date of agreement dated 19.01.2011 till the date of decree and future interest @ 6% per annum from the date of decree till actual realisation of the amount. The said judgment and decree passed by the trial Court was upheld by the Lower Appellate Court vide

judgment and decree dated 18.01.2018.

[3]. During pendency of the present appeal, both the parties have entered into amicable resolution of dispute. Decree holder has suffered a statement before the Additional Civil Judge, (Senior Division), Phillaur in execution proceedings that the execution petition be dismissed as withdrawn being fully satisfied and the property of the judgment debtor may be released from attachment.

[4]. In view of statement made by learned counsel for the decree holder, the execution petition was dismissed as withdrawn being fully satisfied and the property of the judgment debtor was ordered to be released from attachment by the executing Court on 25.04.2018.

[5]. Defendant/appellant sought refund of Court fee under Section 16 of the Court Fee Act in the light of compromise entered into between the parties during pendency of the present appeal.

[6]. Vide order dated 19.07.2018, defendant/appellant was obligated to satisfy this Court whether the appellant is entitled to refund of the Court fee even in the absence of compromise effected before the Lok Adalat in terms of Section 89 CPC.

[7]. By referring to **Pradeep Sonawat Vs. Satish Prakash @ Satish Chandra, 2015(1) RCR (Civil) 955 (P&H)**, learned

counsel for the appellant contended that Section 89 CPC would apply even in cases of counter claims in suits and also in appeals, counter objections and counter appeals and benefit of Section 16 of the Court Fee Act is available to the appellant in appeal in case of settlement irrespective of fact whether it was before the Lok Adalat or otherwise. The refund of Court fee cannot be denied merely because the matter has not been settled before the Lok Adalat. Learned counsel also relied upon **A. Sreeramaiah Vs. Sought Indian Bank Ltd., Bangolore and another, 2007(5) RCR (Civil) 374, Kamalamma Vs. Honnali Taluk Agricultural Produce Co-operative Marketing Society Ltd., Honnali, 2010(1) AIR Kar. R 279** and **CR No.874 of 2009** titled **Tarun Juneja Vs. Hukam Singh** decided on 15.09.2009.

[8]. In view of aforesaid position, I deem it appropriate to accept the prayer for withdrawal of the appeal on the basis of compromise and also hold that the appellant is entitled for the refund of the Court fee under Section 16 of the Court Fee Act. Needful be done by the Registry. Normal consequences to follow.

16.01.2019

Prince

Whether reasoned/speaking
Whether reportable

(RAJ MOHAN SINGH)

JUDGE

Yes/No

Yes/No