

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

CM-10968-C-2019 in/and
RSA No.2769 of 2017 (O&M)
Date of Decision: September 23, 2019

M/s Action Construction Equipment Ltd.

...Appellant

Versus

M/s Omega Engineering Corporation

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. R.S. Randhawa, Advocate
for the appellant.

Mr. S.K. Mahajan, Advocate for
Mr. Dinesh Arora, Advocate
for the respondent.

JAISHREE THAKUR, J. (Oral)

This is a regular second appeal that has been filed seeking to challenge the judgment and decree dated 09.01.2017 passed by the first Appellate Court whereby, the suit of the appellant-plaintiff for recovery of ₹ 31,77,493.24 paise, which was decreed by the lower court, has been dismissed and the counter-claim of the respondent-defendant for ₹ 11,79,816.40 paise has been decreed.

During the pendency of the appeal, an application bearing CM No.10968-C of 2019 has been filed seeking to withdraw the appeal in terms of the compromise dated 04.05.2018 arrived at between the parties, which is placed on record as Annexure A-1 (wrongly mentioned as Annexure P-1 in

the application) and for refund of the court fee deposited by the appellant before this court. A further prayer has been made that this court, while staying the execution of the judgment and decree passed by the first Appellate Court, had directed the appellant herein to deposit 50% of the decretal amount including interest within four weeks and in compliance of the same, an amount of ₹ 5,89,908/- had been deposited with the Registry of this court. It is prayed that amount, so deposited, be refunded to the appellant as well.

Notice has been issued on the said application to the counsel appearing on behalf of the respondent-defendant, who admits to the factum of compromise. He does not dispute the authenticity of Annexure A-1.

I have heard learned counsel for the parties and in view of the no objection given by counsel for the respondent herein, the application bearing CM No.10968-C of 2019 is allowed and the appeal stands dismissed as withdrawn, with a direction to refund the court fee and amount that had been deposited with the Registry to the appellant. The parties shall remain bound by the terms of the compromise.

Miscellaneous applications, pending if any, stands disposed of accordingly.

September 23, 2019

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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No