

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

**RSA-3096-2018 (O&M)
Date of Decision: September 25, 2019**

Basant Kumar

...Appellant

Versus

Rakesh Kumar Gupta and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI, JUDGE.

Present: Mr. Shiv Kumar, Advocate,
for the appellant.

Mr. Johan Kumar, Advocate,
for the respondents.

ARUN PALLI, J. (ORAL)

The suit filed by the appellant-plaintiff was dismissed by the Trial Court, vide judgment and decree, dated 19.07.2016. As even the appeal preferred against the said decree failed, and was dismissed on 13.10.2017, the appellant-plaintiff is before this Court in regular second appeal.

Learned counsel for the respondents submits that post decision of the first Appellate Court, dated 13.10.2017, the parties had entered into a settlement/compromise, and pursuant thereto a land measuring 4 Kanals 1 Marla was transferred by Yogbala wife of Rakesh Kumar Gupta, in favour of the appellant-Basant Kumar, vide sale deed dated 14.12.2017. He submits that in the said sale deed itself it was specifically recited that all disputes arising out of the present suit, i.e. RBT No. 27 of 27.01.2016, would stand concluded and, therefore, neither appellant-plaintiff Basant

Kumar has filed any appeal against the judgment and decree, dated 13.10.2017, nor any appeal shall be filed. It is submitted that after having acquired the land measuring 4 Kanals 1 Marla, pursuant to the sale deed, dated 14.12.2017, appellant-Basant Kumar has even further sold the same, vide sale deed dated 15.02.2018, and the appeal at hands was filed thereafter on 13.03.2018. Therefore, he submits, in the wake of the settlement arrived at between the parties as also the sale deed, dated 14.12.2017, the appeal ought not to have been filed and/or in any case the same be disposed of as having been rendered infructuous. Copies of the two sale deeds, referred to above, produced by the learned counsel for the respondents, are retained on record as Mark 'A' and 'B', respectively.

Faced with this, learned counsel for the appellant submits that let this appeal be disposed of as having been rendered infructuous. However, in the event any dispute/cause of action or interest still survives in the *lis*, he shall move an appropriate application for restoration of the appeal, and its decision on merits.

In the wake of the above, the appeal is disposed of as infructuous with the liberty as prayed for.

(ARUN PALLI)
JUDGE

September 25, 2019

Pk Kapoor

Whether Speaking/Reasoned: YES / NO

Whether Reportable: YES / NO