

RSA No. 3645 of 2018 (O&M)
Date of Decision: 09.09.2019

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Mr. Nitin Thatai, Advocate
for the respondent.

* * * *

RAJ MOHAN SINGH, J. (ORAL)

“a) It has been agreed between the parties that the total amount of Rs.13,60,000/- (Rupees Thirteen Lakh Sixty Thousand Only) will be paid

by the appellant to the respondent as full and final payment of the shop measuring 50 sq. Yds situated in Ludhiana which was earlier agreed by the appellant to the same vide agreement to sell on 16.8.2007 for sale consideration of Rs.7,96,000/- Lakhs (Rupees Seven Lakh Ninety Six Thousand) possession at the time of agreement.

b) Both the parties have further agreed that appellant will pay an amount of Rs.60,000/- before the Executing Court, District Court, Ludhiana which is fixed for 30.4.2019 to the respondent by way of demand draft favouring Sh. Pawan Kumar.

c) Both the parties have further agreed that the appellant will pay another installment before the Executing Court, District Court, Ludhiana on or before 31.5.2019.

d) It has been further agreed between the parties that remaining amount out of the settlement amount i.e. Rs.13,60,000/- will be paid by the appellant to the respondent on or before 31.8.2019 by way of demand draft favouring Sh. Pawan Kumar before the Executing Court, District Court, Ludhiana.

e) The appellant has further agreed that in case he fails to full fill the above terms of payment then the amount which has been given to the respondent will be forfeited.

f) It has been further agreed between the parties that after the receiving the full and final amount payment i.e. Rs.13,60,000/- (Thirteen Lakhs and Sixty Thousand) the respondent will withdraw the execution petition pending before Executing Court, District Court, Ludhiana and will also hand over the papers relating to the said property i.e. a shop measuring 50 sq. Yds situated in Ludhiana before the Executing Court, District Court, Ludhiana and Similarly appellant will also withdraw a present RSA – 3645 of 2018 on next date of hearing before the Hon'ble High Court. Sh. Tanu Nanchal S/o Late Sh. Harish Kumar (Appellant - ii) has stated that he has been authorised by other LRs of late appellant – Harish Kumar to settle the matter on their behalf also. He has also stated that he will place on record the authorisation for settlement on behalf of other LRs Ms.Chanchal (Appellant – i)-widow, Ms Bhawna Nanchal, (Appellant – iii)- daughter and Mrs. Neha Mago (Appellant - iv)-daughter.

g) It is further agreed between the parties that they will not file any civil or criminal complaint regarding to this matter in any Court of law.

h) That the parties undertake before the Hon'ble Court to abide by the terms and conditions set out in the agreement and not to dispute the same hereinafter in future.”

Perusal of the aforesaid conditions would show that a total amount of Rs.13,60,000/- was payable to the respondent towards full and final settlement of his claim qua the shop in question and an amount of Rs.60,000/- was paid to the respondent on 30.4.2019 in terms of condition No. 6(b). Some more payment was to be paid to the respondent on or before 31.5.2019. Admittedly, an amount of Rs.80,000/- was also paid to the respondent in furtherance of condition No. 6(c) of the settlement. The remaining amount of Rs.12,20,000/- was to be paid by the appellants on or before 31.08.2019.

Admittedly, there is default in making payment of the aforesaid amount for which an application for extension of time has been filed along with prayer for stay of execution. Learned counsel for the respondent states that as per terms and

conditions between the parties, the amount of Rs.1,40,000/- is liable to be forfeited in case of non-adherence to the terms and conditions of the compromise. He still shows his readiness and willingness to honour the commitment arising out of the settlement in case the aforesaid amount Rs.1,40,000/- already paid by the appellants is allowed to be forfeited and they are again directed to pay the entire amount of Rs.13,60,000/- on or before 31.10.2019. The aforesaid proposal put forward by learned counsel for the respondent has been accepted by the appellants. Both the parties have filed their respective affidavits as a token of confirmation to the aforesaid additional course of settlement before Court. Both the affidavits are taken on record.

In view of the consensus arrived at between the parties, the appeal is disposed of. Both the parties would abide by the modified terms and conditions as stated above. This compromise will form part of the order.

At this stage, learned counsel for the parties pray for refund of Court fee on the basis of settlement that has been arrived at in the Court. In my view, both the parties are entitled

for refund of their respective Court fee in view of the ratio of

Pradeep Sonawat Vs. Satish Prakash @ Satish Chandra,

2015(1) RCR (Civil) 955 (P&H), A. Sreeramaiah Vs. South

Indian Bank Ltd., Bangalore 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.

It is made clear that the aforesaid refund of Court fee shall only be made in case terms and conditions of the settlement are honoured by the parties in pith and substance.

09.09.2019

Janki

**(RAJ MOHAN SINGH)
JUDGE**

1. *Whether speaking/reasoned* : Yes/No
2. *Whether reportable* : Yes/No