

C.M. No. 5802-C of 2019 and
RSA No. 6302 of 2018 (O&M)
Date of decision : May 21, 2019

Krishan Kumar

Versus

.....Appellant

Ram Kumar

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Ms. Suman Sharma, Advocate for
Mr. Amit Goyal, Advocate
for the appellant.

Mr. Anant Pal, Advocate
for the respondent.

LISA GILL, J.

Present application has been filed for withdrawal/disposal of the appeal as the matter has been amicably resolved between the parties and the terms and conditions reduced into writing on 25.02.2019 (Annexure A1). There is a further prayer for refund of court fees.

Heard learned counsel for the parties.

It is submitted that the suit for possession by way of specific performance of agreement to sell dated 02.03.2013 filed by the respondent – plaintiff Ram Kumar was decreed by the learned trial Court vide impugned judgment and decree dated 05.12.2015. Learned Additional District Judge, Sirsa dismissed the appeal filed by the defendant – appellant vide judgment and decree dated 10.10.2018.

Learned counsel for the parties submit that the matter has indeed been compromised. It is decided that a sum of ₹2 lakhs shall be deposited by the present appellant with the plaintiff. Present appeal shall, accordingly, be withdrawn by the appellant and none of the parties will

initiate any further proceedings against each other. Respondent – plaintiff, it is submitted, shall be satisfied on deposit of said amount of ₹2 lakhs and shall not insist upon the specific performance of the agreement to sell dated 02.03.2013. The respondent would further withdraw the execution application filed by him.

Learned counsel for the appellant relies upon a Division Bench judgement of the Karnataka High Court in **A. Sreeramaiah versus South Indian Bank Ltd., Bangalore and another 2007 (5) RCR (Civil) 374**, to submit that even though the matter has been amicably resolved between the parties amongst themselves without intervention of the Court or any arbitrator, conciliator or mediator, the court fee shall be refunded. It is observed by the Division Bench as under:-

“ As such, we are of the opinion that if the parties come forward to settle their dispute before the Court itself, they should not be denied of refund of Full Court Fees on the ground that they have not settled the dispute before any of the four methods provided under Section 89 of Civil Procedure Code. The object behind Section 89 is to encourage the parties to arrive at settlement and if that object is sought to be achieved by means of referring the matter to any of the four methods mentioned in Section 89, then even the settlement arrived at the earliest stage before the Court would also be one of the method provided under Section 89 of sub-section (1) : Hence, we feel it as just and appropriate to order for full refund of Court Fees in the case of parties settling their dispute before the court as well as before any of the Forum mentioned under Section 89 of the Civil Procedure code. No party should be discriminated in the matter of refund of Court Fees mainly on the ground that they have settled the dispute at the earliest stage before the court without recourse to any of the methods

mentioned under Section 89 of the Civil Procedure Code.
Hence, appellant is entitled for refund of Full Court Fees.”

A similar view has been taken in **Pritam Singh versus Ashok Kumar 2019 (1) Law Herald (P&H) 721** and **Pradeep Sonawat versus Satish Prakash @ Satish Chandra 2015 (1) RCR Civil 955**.

With the consent of the parties, hearing of this case is preponed from 17.10.2019 to today itself.

Application is, accordingly, allowed and appeal is dismissed as withdrawn. In view of the judgments as referred to above, I deem it appropriate to direct refund of court fees appended with this appeal to the appellant.

May 21, 2019
rts

(Lisa Gill)
Judge

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No