IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of Decision: 05.02.2020.

1. CR. No.6893 of 2018

Sunil Dutt Bansal &Ors ...Petitioners

Vs.

Jai Bhagwan&Ors. ...Respondents

2. CR. No.7404 of 2018

Sunil Dutt Bansal ...Petitioner

Vs.

Jai Bhagwan&Ors. ...Respondents

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Vijay Kumar Jindal, Senior Advocate, with
Mr. Samar Ahluwalia, Advocate, and
Ms. JanyaSirohi, Advocate, for the petitioners

Mr. Vikas Bahl, Senior Advocate, with
Mr. Nikhil Sabharwal, Advocate, for the respondents

ALKA SARIN, J.

This order of mine shall dispose of two revision petitions i.e. CR.No.6893 of 2018 and CR. No.7404 of 2018. The said revision petitions have been filed challenging the orders dated 02.05.2018 and 30.08.2018, whereby the application of the petitioners under Order 23 Rule 3 read with Section 151 of the Code of Civil Procedure (hereinafter referred to as'CPC') for recalling the order dated 05.03.2015 as well as for recalling the statements given by Sunil Dutt Bansal, Jai Bhagwan Bansal and Sanjay Bansal was dismissed.

In order to decide the present *lis*, it is necessary to notice the essential facts.

On 02.03.2007 Jai Bhagwan Bansal S/o Late Sh. Ram Sahai Bansal and his son Sanjay Bansal, respondent Nos.1 and 2 herein, filed a suit (CS. No.31) for declaration to the effect that the appointment of Smt. Renu Bansal and Sanjeev Gupta, defendant-petitioners No.2 and 3 herein, as Directors of the Company defendant-respondent No.5 herein, vide the alleged extra-ordinary meeting dated 09.02.2006 allegedly held at SCF. No.272, First Floor, Motor Market, Manimajra, Chandigarh alongwith Form No.32 dated 09.02.2006, Form No.2 dated 15.12.2006 filed by defendant-petitioner No.1 herein with the Registrar of Companies were illegal, null and void and against the provisions of Company Act, 1956 and further for restraining the defendant-petitioners No.2 and 3 herein from participating in any meeting of defendant-respondent No.5 herein. The suit was contested by the defendants therein and vide a detailed judgment dated 06.12.2013 the Trial Court decreed the suit.

On 22.2.2008 a suit (CS. No.246) was filed by Sunil Dutt Bansal, the petitioner No.1 herein, against Jai Bhagwan Bansal, his son Sanjay Bansal, respondent Nos.1 & 2 herein, and others for partition and possession by metes and bounds and in the alternative in case the partition was not possible then to auction the properties amongst the co-owners and in case that was also not possible then by way of sale in public and divide the proceeds among the co-owners. The said suit was dismissed by the Trial Court under Order 17 Rule 3

CPC vide judgment and decree dated 29.03.2014.

Both the judgments and decrees dated 06.12.2013 and 29.03.2014 were challenged by way of separate appeals. The petitioners herein filed an appeal (Appeal No.26/2014) against the judgement and decree dated 06.12.2013 passed in CS. No.31 whereby the suit of the respondent Nos.1 and 2 herein stood decreed. The petitioner No.1 herein also filed an appeal (Appeal No.217/2014) against the judgement and decree dated 29.03.2014 passed in CS. No.246 whereby his suit stood dismissed.

During the pendency of the appeals the parties to the *lis* entered into an oral settlement and a joint statement of Sunil Dutt Bansal, the petitioner No.1 herein, Jai Bhagwan Bansal and Sanjay Bansal, respondent Nos.1 and 2 herein, was recorded on 05.03.2015. The joint statement so recorded is reproduced herein-below:

> "*Joint statement of Sunil Dutt Bansal (appellant), Jai Bhagwan Bansal & Sanjay Bansal (respondents).*
>
> *ON SA*
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> *In order to end the litigation between brothers and sisters, we have arrived at compromise and in terms of compromise, Sunil Dutt Bansal has agreed to pay lump sum amount to the tune of ₹1.65 Crores to his brother Jai Bhagwan Bansal and his son Sanjay Bansal as full and final settlement in respect of their respective claims. It is further resolved that the payment will be made by Sunil Dutt Bansal appellant by way of five installments in cash against proper receipt. The first installment of ₹25 lacs will be paid on or before 10.03.2015. The remaining four*

installments of ₹35 lacs each shall be paid after every two months i.e. on or before 10.5.2015, 10.7.2015, 10.9.2015 and 10.11.2015 and the entire payment will be made on or before 31.12.2015 and in case of any default by Sunil Dutt Bansal in making payment of installments, the respondents Jai Bhagwan Bansal & Sanjay Bansal will be entitled to recover the delayed payment or outstanding amount with interest @ 18% p.a. It is further resolved that in case Sunil Dutt Bansal does not make payment of two consecutive installments, then he will also be liable for criminal/contempt proceedings. It is further resolved that all the parties will be entitled to their shares in the properties as per the existing records and will continue in possession thereof as it is. The parties shall remain bound by their statements made in the court today. It is further resolved that the Sunil Dutt Bansal, Jai Bhagwan Bansal and Sanjay Bansal will be entitled to equal benefit/amount/share, if the writ petition pending in the Hon'ble High Court titled as M/s Morion Chemicals Ltd. Vs. Essix Bio Sciences, goes in their favour. In case the parties wriggle out of their statement, they will be liable for criminal contempt proceedings. In terms of compromise, the appeal may be dismissed as withdrawn. It is also resolved that Sunil Dutt Bansal will not press the application/complaint filed by him in the Economics Offences Wing, Chandigarh and further resolved that complainant Jai Bhagwan Bansal shall not pursue and press FIR No.154 of

> *2007, PS Industrial Area, Chandigarh, now pending in the Court of Sh. Pradeep Synghal, Ld. JMIC, Chandigarh, against all the three persons. It is further resolved that none of the parties shall raise any claim whatsoever against each other in any court of law or authority established under law in future concerning the disputes which have been settled through the present compromise. It is further resolved that Sunil Bansal will not be liable for any debt."*

On 05.03.2015, on the basis of the said joint statement, both the appeals were dismissed as withdrawn in view of the compromise.

Thereafter, respondent No.1 herein filed an execution petition since according to him the petitioner No.1 herein was not abiding by the terms of the compromise. Objections were filed by the petitioner No.1 herein in the said Execution Petition No.889 of 29.09.2015 wherein various grounds were raised. However, vide a detailed order the said objections were dismissed on 19.01.2016 (Annexure P-4 with both the revision petitions). Against the order dated 19.01.2016, Civil Revision No.1201 of 2016 was preferred in this Court by the petitioner no.1 herein.

Meanwhile, two separate applications were filed by the petitioner No.1 in the two appeals which had been filed by him. The application in Appeal No.26/2014 was for reconsideration of the matter resolved vide compromise dated 05.03.2015 while the application in Appeal No.217/2014 was for directing the Jai Bhagwan Bansal and Sanjay Bansal, respondent Nos.1 and 2 herein, to comply with the terms and conditions of compromise dated 05.03.2015. Both the said applications were dismissed vide separate orders dated 02.02.2016. The order passed on the application filed in Appeal No.26/2014 is Annexure P-6 in CR. No.6893 of 2018 while the order passed on the application filed in Appeal No.217/2014 is Annexure P-6 in CR. No.7404 of 2018.

On 17.02.2016, CR. No.1201 of 2016 filed by the petitioner No.1 herein was also dismissed by this Court (Annexure P-5 with both the revision petitions). Though the two applications filed by petitioner No.1 in the two appeals referred to above stood dismissed vide orders dated 02.02.2016, this fact or the two orders were not brought to the notice of this Court.

Thereafter, in the two appeals which were filed by the petitioners herein (Appeal No.26/2014 and Appeal No.217/2014), applications were filed by them under Order 23 Rule 3 read with Section 151 CPC for recalling of the order dated 05.03.2015 as well as for recalling the statements given by Sunil Dutt Bansal, Jai Bhagwan Bansal and Sanjay Bansal on 05.03.2015. Replies to the said applications were filed on behalf of the respondent Nos.1 and 2 herein. The copies of the said application and said reply annexed with both the civil revisions are the same and infact pertain to the application and reply filed in Appeal No.217/2014 alone. The application and reply filed in Appeal No.26/2014 are not on the record and counsel for the petitioners has passed over photocopies of the same during the course of arguments. The counsel for the respondent Nos.1 and 2 has no objection to the same being referred to.

In the application filed under Order 23 Rule 3 read with Section 151 CPC for recalling of the order dated 05.03.2015 as well as for recalling the statements given by Sunil Dutt Bansal, Jai Bhagwan Bansal and Sanjay Bansal on 05.03.2015 (Annexure P-9 in CR. No.7404 of 2018), it has inter-alia been averred that "*However the Hon'ble High Court of Punjab and Haryana at Chandigarh has observed in the order dated 17.2.2016 that the applicant/appellant is not prevented to move the application as provided under order 23 CPC for recalling the order*". This averment is with reference to order dated 17.02.2016 passed by this Court in CR. No.1201 of 2016 which civil revision had been filed by the petitioner No.1 herein against dismissal of his objections in the execution petition.

After hearing both the parties, the Trial Court vide separate orders dated 02.05.2018 (in CR.No.6893 of 2018) and 30.08.2018 (in CR. No.7404 of 2018) dismissed the applications filed under Order 23 Rule 3 read with Section 151 CPC for recalling of the order dated 05.03.2015 as well as for recalling the statements given by Sunil Dutt Bansal, Jai Bhagwan Bansal and Sanjay Bansal on 05.03.2015. Hence, the present revision petitions challenging the said orders dated 02.05.2018 and 30.08.2018 which orders are annexed as Annexure P-10 in CR. No.6893 of 2018 and Annexure P-11 in CR. No.7404 of 2018.

I have heard learned counsel for the parties.

Mr. V.K. Jindal, Senior Advocate, appearing on behalf of the petitioners in both the revision petitions, has contended that the compromise arrived at between the parties was not lawful or legal and hence challenged the very validity and legality of the compromise which was entered into between the parties. It is further argued that though out of the amount of ₹1.65 crores, which was to be paid by the petitioners, ₹60 lakhs had already been paid in pursuance of the compromise yet the respondents were not permitting the petitioners to enter all the properties. He further contended that the compromise was not signed by the parties and was merely a joint statement of Sunil Dutt Bansal, Jai Bhagwan Bansal and Sanjay Bansal. It is also argued that his case falls under the proviso to Order 23 Rule 3 CPC and that since there was no adjustment of the claim between the parties, it was incumbent on the Court to decide the question as to whether there has been any adjustment of claims between the parties.

It has also been argued by Mr. V.K. Jindal, Senior Advocate that the joint statement recorded on 05.03.2015 did not spell out a fair compromise inasmuch as there was no mode of partition referred to nor is there any reference to the compromise or its description. The compromise being totally vague, deserved to be set aside.

In support of his arguments the senior counsel has relied upon the following judgments:

1. 1993(1) SCC 581 Banwarilal Vs. Chando Devi (through LR)
2. 1997(2) CivCC 34 Kamla Devi &Ors. Vs. Prabhat Chand &Anr.
3. 2001(3) R.C.R (Civil) 343 Jawan Vs. Mewa Singh
4. AIR 2006 SC 2628 Pushpa Devi Bhagat (D) Th. LR. Smt. Sadhna Rai Vs. Rajinder Singh &Ors.
5. 1954 AIR (Orissa) 80, Sunder Sahu Gountia&Ors. Vs. Chamra Sahu Gountia&Ors.
6. 1935 AIR (PC) 119 (Babu) Sheonandan Prasad Singh &Ors. Vs. Hakim Abdul Fateh Mohammad Reza and Anr.
7. 1990(1) R.C.R (Rent) 198 Sumer &Anr. Vs. Vijay Singh

&Anr.

8. 2008(1) R.C.R (Civil) 482, Harbans Lal &Anr. Vs. Pardip Kumar &Ors.

9. 1988(2) PLR 365 Gurpreet Singh Vs. Chatur Bhuj Goel

10. 2007(8) R.C.R (Criminal) 362 J.S. Dahiya Vs. Chatar Singh

11. 2012(8) R.C.R (Civil) 3189 Vinay Kumar Malhotra &Ors. Vs. Vashist Malhotra

12. 1996(62) DLT 151 Santosh Tuli Vs. Ram Nath Passi

13. 2018(4) RCR (Civil) 37 Ved Pal (D) through Lrs&Ors. Vs. Prem Devi (D) through LRs &Ors.

Per contra Mr. Vikas Bahl, Senior Advocate, appearing for the respondent Nos.1 and 2 contended that there was no ground for challenge of the compromise under Order 23 Rule 3 CPC. He further drew the attention of the Court to the order dated 02.02.2016 whereby the two separate applications filed by the petitioner No.1 in the two appeals for reconsideration of the matter resolved and for directing the Jai Bhagwan Bansal and Sanjay Bansal, respondent Nos.1 and 2 herein, to comply with the terms and conditions of compromise dated 05.03.2015 were dismissed. These orders are Annexure P-6 in both the revision petitions. Mr. Bahl, Senior Advocate, stressed upon the heading of the applications as reproduced in the said orders. In the order dated 02.02.2016 Annexure P-6 in CR. No.6893 of 2018 the heading reads as "*Application for reconsideration of the matter of the disputes resolved vide compromise dated 05.03.2015, as the compromise was effected with the help of judicial process*". In the order dated 02.02.2016 (Annexure P-6 in CR. No.7404 of 2018) the heading reads as "*Application for directing the* *respondents to comply with the terms and conditions of the compromise dated 5.3.2015*".

It is further contended by Mr. Bahl that once the petitioners herein had filed an application for issuance of directions to the respondents to comply with the terms and conditions of the compromise dated 05.03.2015 and another application for reconsideration of the matter of the disputes resolved vide compromise dated 05.03.2015, they could not file the applications under Order 23 Rule 3 read with Section 151 CPC for recalling of the order dated 05.03.2015 as well as for recalling the statements given by Sunil Dutt Bansal, Jai Bhagwan Bansal and Sanjay Bansal on 05.03.2015.

It is further contended that the proviso to Order 23 Rule 3 CPC comes into play only where at the initial stage one party alleges and the other party denies that the adjustment or satisfaction had been arrived at and thereupon the Court shall decide the question qua the same. He also submits that the stand of the petitioners herein in the earlier applications was that the compromise was valid and in fact the petitioners had prayed for issuance of directions for implementation of the said compromise. That being so, the same petitioners could not now challenge the very same compromise as being illegal and not valid. He also contended that the dismissal of the earlier applications vide orders dated 02.02.2016 (Annexure P-6 in both the revision petitions) would operate as *res judicata* inasmuch as the said orders had not been challenged and had attained finality.

Mr. Bahl, Senior Advocate further referred to the order dated 19.01.2016 (Annexure P-4 in both the revision petitions) passed by the Executing Court whereby the objections filed by the petitioner No.1 were dismissed and wherein it is noticed by the Executing Court that the petitioner herein had admitted that there was no dispute regarding validity of the compromise but had made certain objections regarding enforcement of the compromise.

In support of his arguments the senior counsel has relied upon 2006(3) RCR 479 Pushpa Devi Bhagat (D) Th. LR. Smt. Sadhna Rai Vs. Rajinder Singh & Ors. to contend that the compromise does not need to be reduced into writing and the statement of the counsel recorded by the Court and duly signed by the persons making the statement would be considered as statement in writing signed by the parties within the meaning of Order 23 Rule 3 CPC. He has further relied upon 2006(4) RCR (Civil) 898 Chhabil Das Vs. Pappu, in support of the argument that the principles of *res judicata* also apply in different stages of the same proceedings.

In the present cases the dispute is between family members. The petitioners herein having lost in both the respective suits in which they were parties, had filed appeals and during the pendency of the appeals the petitioner No.1 had entered into compromise with his brother Jai Bhagwan Bansal and nephew Sanjay Bansal. On the basis of the said compromise a joint statement was recorded which has been reproduced above. This was also signed by the counsel representing the other members of the family. As per the compromise the petitioner No.1 was to pay a lump sum amount of ₹1.65 crores to his brother Jai Bhagwan Bansal and nephew Sanjay Bansal as full and final settlement in respect of the respective claims. It is also recorded in the statement that the said amount would be paid by way of five instalments in cash against proper receipts. The dates on which the installments were to be paid were also mentioned in the joint statement. It is further recorded that the parties would be entitled to their shares in the property as per the existing records and will continue in possession thereof.

Admittedly, both the parties have acted on the compromise inasmuch as according to the petitioners a sum ₹60 lakhs already stands paid to respondent Nos.1 and 2 in pursuance to the compromise and the complaint filed against them before the Economic Offences Wing has also been withdrawn. On the other hand FIR No.154 of 2007 was not pressed by Jai Bhagwan Bansal (respondent No.1) and eventually the petitioner No.1 herein was acquitted. After recording of the compromise and the joint statement, execution was preferred by the respondent Nos.1 and 2 herein in which objections were filed by the petitioner No.1 herein. The Executing Court while dismissing the said objections vide order dated 19.01.2016 (Annexure P-4 in both the revision petitions) inter-alia observed as below :

> "*4. I have heard the learned counsel for the parties and have perused the case file carefully. Learned counsel for the objector has not disputed the compromise and has specifically admitted that there is no dispute as to the validity of the compromise but has made specific objection regarding the enforcement of compromise. He has specifically relied upon judgment Mohd. Amin Vs. Mohd. Iqbal 2010(7) RCR (Civil) 2700 wherein it is held that decree holder could not have sought execution of decree in the suit, dismissed as withdrawn, the decree holder at the most can take recourse to appropriate legal remedies for enforcement for rights under agreement, if*

so advised in accordance with law.

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9. As both the parties have not disputed the compromise and has not even disputed that JD was to honour the compromise by making that the first installment of Rs.25.00 lacs paid on or before 10.03.2015. However, he has even admitted that he has make payment of Rs.65 lakhs out of Rs.1.65 crores in view of the compromise entered into between the parties at their own will. This Court is of the opinion that JD is trying to wriggle out from his liability and has filed the present objection petition. The Executing Court cannot go beyond the decree/judgment and moreover in the present case the compromise/judgment is passed by the Superior Court of Sh. Kuldeep Kumar Kareer, Ld. Additional District Judge, Chandigarh. Therefore, the compromise is ordered to be executed in later and spirit".

Interestingly, before the Executing Court the compromise was not disputed by the petitioner No.1. He however only raised an objection regarding enforcement of the compromise. Against the dismissal of his objections by the Executing Court the petitioner No.1 preferred CR. No.1201 of 2016 before this Court which was dismissed on 17.02.2016. Prior to the dismissal of the said civil revision by this Court, two applications were filed by the petitioner No.1 in both the appeals - one for reconsideration and one for enforcement of the compromise. Both the said applications were dismissed by detailed speaking orders on 02.02.2016. The petitioner chose not to challenge the said orders and hence the same attained finality.

Thereafter two applications were filed by the petitioners herein, in their respective appeals, under Order 23 Rule 3 read with Section 151 CPC for recalling of the order dated 05.03.2015 as well as for recalling the statements given by Sunil Dutt Bansal, Jai Bhagwan Bansal and Sanjay Bansal on 05.03.2015. A perusal of the said applications reveals that the grounds taken therein were that the compromise was not legal and hence liable to be recalled and further that the same was never reduced into writing and was not signed by the parties. A plea was also raised that the petitioners were not being permitted to enter the properties. In the application filed in Appeal No.26/2014 (Annexure P-9 in CR. No.7404 of 2018), it has inter-alia been averred that "*However the Hon'ble High Court of Punjab and Haryana at Chandigarh has observed in the order dated 17.2.2016 that the applicant/appellant is not prevented to move the application as provided under order 23 for recalling the order"*.

The ground which has now been urged by Mr. Jindal, Senior Advocate that there was no adjustment or satisfaction of the claim and hence the case would fall within the four corners of the proviso to Order 23 Rule 3 CPC was neither raised by him in the applications filed under Order 23 Rule 3 read with Section 151 CPC nor argued before the Court below. This point was also not raised by the petitioners before the Executing Court. Order 23 Rule 3 CPC reads as under:

> "*Compromise of suit: Where it is proved to the satisfaction of the Court that a suit has been adjusted wholly or in part by any lawful agreement or compromise in writing and signed by the*

parties, or where the defendant satisfies the plaintiff in respect of the whole or any part of the subject-matter of the suit, the Court shall order such agreement, compromise or satisfaction to be recorded, and shall pass a decree in accordance therewith so far as it relates to the parties to the suit, whether or not the subject-matter of the agreement, compromise or satisfaction is the same as the subject matter of the suit.

Provided that where it is alleged by one party and denied by the other that an adjustment or satisfaction has been arrived at, the Court shall decide the question;but no adjournment shall be granted for the purpose of deciding the question, unless the Court, for reasons to be recorded, thinks fit to grant such adjournment.

Explanation-An agreement or compromise which is void or voidable under the Indian Contract Act, 1872 (9 of 1872), shall not be deemed to be lawful within the meaning of this rule".

For Punjab, Haryana and Chandigarh the following provisos to Rule 3 have been added:

"*Provided that the hearing of a suit shall proceed and no adjournment shall be granted in it for the purpose of deciding whether there has been any adjustment or satisfaction, unless the Court for reasons to be recorded in writing, thinks fit to grant such adjournment, and provided further that the judgment in the suit shall not be announced until the question of adjustment or satisfaction has been decided;*

Provided further that when an application is made by all the *parties to the suit, either in writing or in open Court through their counsel, that they wish to compromise the suit, the Court may fix a date on which the parties or their counsel should appear and the comprise be recorded, but shall proceed to hear those witnesses in the suit who are already in attendance, unless for any other reason to be recorded in writing, it considers it impossible or undesirable to do so. If upon the date fixed no compromise has been recorded, no further adjournment shall be granted for this purpose, unless the Court, for reason to be recorded in writing, considers it highly probable that the suit will be compromised on or before the date to which the Court proposes to adjourn the hearing".*

A bare reading of the proviso to Order 23 Rule 3 CPC makes it clear that when it is alleged by one and denied by the other that an adjustment or satisfaction has been arrived at, it is incumbent upon the Court to decide the question as per the law laid down by the Apex Court in the case of ***Banwari Lal (supra)***. No doubt that in an appropriate case, an application under Section 151 can be entertained by the Court questioning the legality or validity of the compromise and there is no quarrel with the said proposition of law. However, every case needs to be seen on the basis of the facts of that particular case. In the present case, as noticed above, the stand taken by the petitioners has been that the compromise was valid and that there were only issues regarding its enforceability. There is no averment by the petitioners in their respective applications filed under Order 23 Rule 3 CPC that there has been any fraud or misrepresentation while arriving at the compromise, rather the applications seem to be questioning the enforceability of the compromise.

The other argument which has been raised is whether the said compromise could be challenged by the petitioners on the ground that there was no adjustment/satisfaction of the claim. In my considered opinion the said argument of the learned counsel for the petitioners also deserves to be rejected.

The proviso to Order 23 Rule 3 CPC lays down that where it is alleged by one party and denied by the other that an adjustment or satisfaction has been arrived at, the Court shall decide the question. In the present case at the time when the matter was compromised and the joint statement of the parties were recorded on 05.03.2015, no such allegation that no adjustment or satisfaction has been arrived at was raised by the petitioners. No such objection was raised in the objections filed before the Executing Court which in its order dated 19.01.2016 (Annexure P-4 in both the revision petitions) observed as under :

> "*2. The brief facts of the objection petition filed against the execution application are that civil suit for partition & possession was filed by the JD against the decree holders which was dismissed under Order 17 Rule 3 CPC vide order dated 29.03.2014. The appeal filed by the JD against that order was also dismissed being withdrawn on 05.03.2015 in view of the compromise. The DH never remained plaintiff or appellant during the pendency of the litigation nor they raised any claim in litigation, as such the present execution is not maintainable. It is further submitted that the compromise dated 05.03.2015 was effected to sort out all problems of litigation and differences between the parties. In view of compromise and in*

those circumstances compromise cannot be enforced through proceedings of execution. There is no dispute as to validity of agreement but enforcement of agreement is in question as also mode and manner of execution. It is prayed that objection petition may kindly be allowed".

Infact the categoric stand before the Executing Court was that there was no dispute qua the validity of the agreement but rather qua only the enforcement of the agreement as also the mode and manner of execution. Against the order passed by the Executing Court the petitioner No.1 approached this Court in CR. No.1201 of 2016 which revision petition was dismissed vide order dated 17.02.2016 (Annexure P-5 in both the revision petitions). Even before this Court, there was no argument raised qua adjustment or satisfaction of the claim and in fact the only ground raised was that the compromise arrived at could not be executed in the absence of any decree. Further, the application filed by petitioner No.1 for reconsideration of the matter of the disputes resolved vide compromise dated 05.03.2015 and the other application for directing the respondents to comply with the terms and conditions of the compromise dated 05.03.2015 were dismissed vide orders dated 02.02.2016 without any such plea being raised as is being canvassed now. The said orders dated 02.02.2016 attained finality as the petitioners chose not to challenge the same. The orders dated 02.02.2016 (Annexure P-6 in both the revision petitions) having become final they would also operate as *res judicata* inasmuch as it is settled principle of law that the principle of *res judicata* also applies in different stages of the same proceedings. The principles of *res judicata* can be invoked not only in separate subsequent proceedings, they also get attracted in subsequent stage of the same proceedings as settled in ***Chhabil Das case (supra)*** and also in Bhanu Kumar Jain vs. Archana Kumar &Anr. (2005) 1 SCC 787.

Further, in the two applications filed by the petitioners herein under Order 23 Rule 3 read with Section 151 CPC for recalling of the order dated 05.03.2015 as well as for recalling the statements given by Sunil Dutt Bansal, Jai Bhagwan Bansal and Sanjay Bansal on 05.03.2015, the grounds taken were that the compromise was not legal and hence liable to be recalled and further that the same was never reduced into writing and was not signed by the parties. In one of the said applications, observations made by this Court in its order dated 17.02.2016 in CR. No.1201 of 2016 were also brought into the picture. That apart, there is no ground raised by the petitioners qua adjustment or satisfaction of the claim. Rather, the petitioners are wanting the terms of the compromise to be re-written which cannot be permitted in law.

Once the case of the petitioners was that the compromise entered into was legal and valid and that they only raised an issue regarding enforcement of the same, it does not now lie in their mouth to contend that the same compromise is illegal and void.

The counsel for the petitioners also raised a faint argument that all the parties had not made the statement on 05.03.2015. In the impugned orders dated 02.05.2018 (Annexure P-10 with CR. No.6893 of 2018) the Court below has dealt with this submission holding that "*Sunil Dutt Bansal was present before the Court and he affixed his signatures on the statement and on behalf of other applicants/appellants, their counsel affixed his signatures. It is not where denied by the applicants that they never engaged Sh.Ashok Jagga as* *their counsel who at the time of recording the statement dated 5.3.2015 also appended his signatures on their behalf".* There is no bar in law which disallows parties to enter into a compromise by counsel in their cause or by their duly authorized agents. The decision in ***Pushpa Devi Bhagat's case (supra)*** in this regard is fully applicable to the present case. In view of the above noted factual matrix dealing with this argument of the learned counsel for the petitioners, his contention that the compromise was not signed by the parties and hence not legal and binding deserves to be rejected.

The judgements relied upon by the counsel for the petitioners are settled principles of law. However, applicability of a proposition of law has to be seen in the facts and circumstances of the case. The decisions relied on by the counsel for the petitioners are of no avail in the facts and circumstances of the present case. It is trite that a Court must be satisfied that a compromise is not void or voidable and that the compromise is not the result of fraud or coercion. In the present case, as discussed in detail above, the categoric stand of the petitioners till the filing of the present applications under Order 23 Rule 3 read with Section 151 CPC had consistently been that the compromise of 05.03.2015 was valid and legal and infact they themselves had asked for its implementation.

In view of the above, I do not find any illegality or infirmity or perversity in the orders passed by the Court below. Both the revision petitions,being devoid of any merit, are dismissed.

05.02.2020 **(ALKA SARIN)**
tripti **JUDGE**

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No