

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM Nos.4665-C, 4666-C of 2020 &
RSA No.2450 of 2011 (O&M)
DATE OF DECISION: 10.09.2020

Surender Kumar

.....Appellant

Versus

Hans Raj Mandi

.....Respondent

CORAM:- HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Aakash Singla, Advocate for the applicant/appellant

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ALKA SARIN, J.: (Oral)

Heard through video conferencing.

CM. No.4665-C of 2020

This application has been filed under Order 23, Rule 3 read with Section 151 of the Code of Civil Procedure, 1908 for disposal of the main appeal in view of the compromise dated 17.07.2015 (Annexure A-1).

Notice in application.

Mr. Raj Kumar, Advocate has put in appearance through video conferencing and accepts notice on behalf of the non-applicant/plaintiff-respondent.

The application is also duly supported by an affidavit of the non-applicant/plaintiff-respondent, Hans Raj Mandi son of Basawa Ram, which has been annexed as Annexure A-2 with the application.

With the consent of the learned counsel for the parties, the main case is taken on board.

RSA No.2450 of 2011

The Regular Second Appeal was filed by the defendant-appellant against the judgments and decrees of the Courts below arising out of a suit for

specific performance. Both the Courts below had decreed the suit in favour of the plaintiff-respondent qua 5 acres of land. During the pendency of the appeal, a compromise dated 17.07.2015 was entered into between the parties. As per the compromise, the defendant-appellant herein was to execute a sale deed qua part of the suit land admeasuring 20 kanals - 14 marlas as per the details mentioned in para-1 of the said compromise.

Learned counsel for the non-applicant/plaintiff-respondent submits that he has duly confirmed that the parties had entered into a compromise in 2015. However, the said compromise was not earlier placed on the record as the parties were keen to first get the sale deed executed and thereafter get the appeal disposed of. However, in view of the interim orders passed by this Court, the parties were unable to get the sale deed executed and have now approached the Court for disposal of the appeal in terms of the settlement.

In view of the above, CM. No.4665-C of 2020 is allowed and the main regular second appeal is disposed of in terms of the compromise dated 17.07.2015. The original compromise dated 17.07.2015 attached with the application shall form a part of the decree-sheet.

CM. No.4666-C of 2020

This is an application for refund of court fees paid by the parties in the Trial Court, lower Appellate Court and in this Court in the present regular second appeal.

The counsel for the applicant-appellant contended that since the dispute between the parties has been settled, in the light of the principles enshrined in Section 16 of the Court Fees Act, 1870 and Section 90 CPC, the parties are entitled to be refunded the court fees paid by them in the Courts below as well as this Hon'ble Court irrespective of the fact that the settlement was reached without the intervention of the Court and outside Court.

In support of his submission, the counsel has relied upon ***Pradeep Sonawat vs. Satish Prakash, AIR 2015 Pb. 130; Tarun Juneja & Ors. Vs. Hukam Singh, CR. No.874 of 2009 decided on 15.9.2009; Harish Kumar***

(deceased) through LRs vs. Pawan Kumar Sehgal, RSA. No.3645 of 2018 decided on 09.09.2019; Naresh Kumar vs. M/s Jasmer Singh Harphool Singh & Ors., RSA. No.1265 of 2019 decided on 10.09.2019; A. Sreeramaiah vs. South Indian Bank Ltd. & Anr., 2007(5) RCR (Civil) 374 [Karnataka High Court]; and Kamalamma & Ors. Vs. Honnali Taluk Agricultural Produce Coop. Marketing Society & Ors., 2009(33) RCR (Civil) 110 [Karnataka High Court].

A perusal of the decisions mentioned above makes it clear that court fee can be refunded to the parties where a compromise/settlement has taken place even outside the Court. This is also the intention behind the provisions of law relied upon by the counsel so that the process of alternate dispute resolution is encouraged.

In view of the aforesaid settled legal position, both the parties are allowed refund of their respective court fees affixed before the Trial Court, lower Appellate Court and this Court in the present regular second appeal.

CM stands disposed off in the above terms.

The regular second appeal and the applications are disposed off as indicated above.

**(ALKA SARIN)
JUDGE**

10.09.2020
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NOTE:

Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO