

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

RSA-5099-2012(O&M)

Date of Decision:29.01.2020

Vijay Kumar Aggarwal

....Appellant

Versus

Brij Bala and another

...Respondents

CORAM:HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Madan Gupta, Advocate, for the appellant.

Mr. Manjeet Singh, Advocate for
Mr. Vivek Goyal, Advocate, for respondent No.1.

Service of respondent No.2 dispensed with
vide order dated 11.12.2014.

MAHABIR SINGH SINDHU, J.

Present regular second appeal has been preferred against the impugned judgment and decree dated 01.10.2012, passed by learned Additional District Judge, Kurukshetra, whereby the appeal filed by the respondent/plaintiff was accepted and the judgment and decree dated 23.04.2010 passed by learned Additional Civil Judge (Senior Division), Kurukshetra was set aside.

On 05.04.2019, this Court passed the following order:-

It is jointly submitted on behalf of both the parties that there is a possibility of settlement between the parties. Accordingly, let this matter be sent for mediation in the Mediation and Conciliation Centre of this Court. Both the parties are directed to appear before Mediator on 23.04.2019.

Let this matter be put up on 24.07.2019 for awaiting report of the Mediator.'

In compliance of the above order, parties appeared

before the Mediation and Conciliation Centre of this Court and settled

the matter amicably, and the relevant part of the settlement dated 23.04.2019, reads as under:-

'vi) The following settlement has been arrived at between the parties hereto:

a) As per the settlement the first party has paid Rs. 2,00,000/- to the second party ie. Smt. Brij Bala as full and final settlement regarding the matter in dispute. Now there is nothing outstanding against the first party.

b) The first party is entitled to get the refund of Court Fee deposited in the present RSA and the second party has no objection if the Court Fee be refunded to the first party.

c) That the second party can also get the refund of the Court Fee deposited before the Trial Court as well as the First Appellate Court as per law and the first party has no objection for the same.”

Even before this Court also, learned counsel for the parties agreed that the matter has been amicably settled and there is no grievance left against each other.

In view of the above factual position, learned counsel for the appellants states that the present appeal has been rendered infructuous, however, he prayed for refund of the Court fee.

Since the appeal is being withdrawn without any contest on the basis of amicable settlement arrived at between the parties, therefore, in terms of Section 89 of the Code of Civil Procedure, 1908, this Court deems it appropriate to allow refund the Court fee affixed on the Memorandum of Appeal.

Consequently, Registry is directed to issue the requisite certificate in terms of Section 16 of the Court Fees Act, 1870, in favour of the appellant for refunding of Court fee.

In view of the above, the present appeal is disposed off as having been rendered infructuous, subject to the observations made above.

[MAHABIR SINGH SINDHU]
JUDGE

January 29, 2020

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Whether speaking/reasoned	yes/no
Whether reportable?	yes/no