

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

(102) CM-704-C-2021 & CM-705-C-2021 in/and
RSA-2232-2014

Date of Decision: March 03, 2021

Rahisan and another .. Appellants

Versus

Fazru and others .. Respondents

(2) CM-678-C-2021 & CM-680-C-2021 in/and
RSA-2523-2014

Rahisan and another .. Appellants

Versus

Fazru and others .. Respondents

(3) CM-711-C-2021 & CM-712-C-2021 in/and
RSA-2226-2014

Rahisan and another .. Appellants

Versus

Fazru and others .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Tanmoy Gupta, Advocate, for the applicant-appellants.

Mr. Abhinav Sood, Advocate, for

Mr. Vikram Singh Dhakla, Advocate, for respondents No. 3 and 4.

HARSIMRAN SINGH SETHI, J.(ORAL)

CM-704-C-2021 in RSA-2232-2014

CM-678-C-2021 in RSA-2523-2014

CM-711-C-2021 in RSA-2226-2014

Present applications have been filed for withdrawal of the main
appeals i.e. RSA No.2232 of 2014, RSA No.2523 of 2014 and RSA No.2226 of
2014 in view of the fact that the parties have already compromised their

dispute outside the Court and keeping in view the said compromise, the applicant-appellants wish to withdraw the present Regular Second Appeals.

Notice of the application to the counsel opposite.

Mr. Abhinav Sood, Advocate, appearing on behalf of Mr. Vikram Singh Dhakla, Advocate, who is present in the Court, accepts notice on behalf of respondents No. 3 and 4 and raises no objection for the grant of the prayer as raised in the present applications.

Keeping in view the averments made in the applications, which are duly supported by an affidavit, the applications are allowed and the hearing of the main Regular Second Appeals is preponed from 30.06.2021 to today.

RSA-2232-2014, RSA-2523-2014 and RSA-2226-2014

All the three Regular Second Appeals are inter connected are being decided by this common order.

Learned counsel appearing on behalf of the appellants submits that the present Regular Second Appeals may be allowed to be withdrawn keeping in view the compromise entered into between the parties.

Ordered accordingly.

CM-705-C-2021 in RSA-2232-2014
CM-680-C-2021 in RSA-2523-2014
CM-712-C-2021 in RSA-2226-2014

The present applications have been filed for the refund of the Court fees, which has been deposited by the applicant-appellants at the time of filing present Regular Second Appeals.

Learned counsel for the appellants argues that as the parties have already resolved their dispute amicably in an out of Court settlement, keeping in view the settled principle of law once the parties to the dispute have resolved their dispute amicably in an out of Court settlement, the Court fee deposited by the appellants needs to be refunded to them. Learned counsel for the appellants

relies upon the judgment of the Hon'ble Supreme Court of India in SLP (Civil) Nos.3063-3064 of 2021 titled as *The High Court of Judicature at Madras Rep. by its Registrar vs. M.C. Subramaniam and others* decided on 17.02.2021.

The Hon'ble Supreme Court of India in *M.C. Subramaniam's case (supra)* has held as under:-

19.“We find ourselves in agreement with the approach taken by the High Courts in the decisions stated supra. The purpose of Section 69A is to reward parties who have chosen to withdraw their litigations in favour of more conciliatory dispute settlement mechanisms, thus saving the time and resources of the Court, by enabling them to claim refund of the court fees deposited by them. Such refund of court fee, though it may not be connected to the substance of the dispute between the parties, is certainly an ancillary economic incentive for pushing them towards exploring alternative methods of dispute settlement. As the Karnataka High Court has rightly observed in *Kamalamma* (supra), parties who have agreed to settle their disputes without requiring judicial intervention under Section 89, CPC are even more deserving of this benefit. This is because by choosing to resolve their claims themselves, they have saved the State of the logistical hassle of arranging for a third party institution to settle the dispute. Though arbitration and mediation are certainly salutary dispute resolution mechanisms, we also find that the importance of private amicable negotiation between the parties cannot be understated. In our view, there is no justifiable reason why Section 69A should only incentivize the methods of out of court settlement stated in Section 89, CPC and

afford step brotherly treatment to other methods availed of by the parties.

Admittedly, there may be situations wherein the parties have after the course of a long drawn trial, or multiple frivolous litigations, approached the Court seeking refund of court fees in the guise of having settled their disputes. In such cases, the Court may, having regard to the previous conduct of the parties and the principles of equity, refuse to grant relief under the relevant rules pertaining to court fees. However, we do not find the present case as being of such nature.

20. Thus, even though a strict construction of the terms of [Section 89](#), CPC and 69-A of the 1955 Act may not encompass such private negotiations and settlements between the parties, we emphasize that the participants in such settlements will be entitled to the same benefits as those who have been referred to explore alternate dispute settlement methods under [Section 89](#), CPC. Indeed, we find it puzzling that the Petitioner should be so vehemently opposed to granting such benefit. Though the Registry/State Government will be losing a one time court fee in the short term, they will be saved the expense and opportunity cost of managing an endless cycle of litigation in the long term. It is therefore in their own interest to allow the Respondent No. 1's claim.

21. Thus, in our view, the High Court was correct in holding that Section 89 of the CPC and [Section 69A](#) of the 1955 Act be interpreted liberally. In view of this broad purposive construction, we affirm the High Court's conclusion, and hold that Section 89 of CPC shall cover, and the benefit of [Section 69-A](#) of the 1955 Act shall also extend

to, all methods of out of Court dispute settlement between parties that the Court subsequently finds to have been legally arrived at. This would, thus, cover the present controversy, wherein a private settlement was arrived at, and a memo to withdraw the appeal was filed before the High Court. In such a case as well, the appellant, i.e., Respondent No. 1 herein would be entitled to refund of court fee.

In view of the settled principle of law, the appellants have made out a case for the refund of Court fee deposited by them at the time of filing the Regular Second Appeals.

Let the Court fee deposited by the appellants be refunded to them in case, any such application is made by the appellants to the authority concerned after the disposal of the present appeals by following due procedure as envisaged.

(HARSIMRAN SINGH SETHI)
JUDGE

March 03, 2021
harsha

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