

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

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**RSA No.1433 of 2016 (O&M)
Date of decision: 30.11.2022**

JASWINDER

..APPELLANT

VS.

MANOJ KUMAR

..RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. R.S. Athwal, Advocate for the appellant.
Mr. Balbir Singh Sewak, Advocate for the respondent.

HARKESH MANUJA, J.(ORAL)
CM-7465-C-2022

Settlement/Compromise dated 20.02.2022 is taken on record as prayed for. Application stands allowed. Registry to tag the same at appropriate place.

RSA-1433 of 2016

Based on agreement to sell dated 09.06.2009, respondent-plaintiff filed a suit for possession by way of specific performance along with prayer for permanent injunction. The aforesaid suit was decreed vide judgment dated 14.10.2014. Challenge made to the decree passed by the trial Court, at the instance of appellant-defendant also met the same fate as the first appeal was dismissed by the Court of learned District Judge, Shaheed Bhagat Singh Nagar vide judgment and decree dated 10.12.2015.

Impugning the judgments and decrees passed by the Courts below, the appellant-defendant filed the present second appeal. At the time of issuance of notice vide order dated 11.04.2016, the appellant-defendant was directed to deposit a sum of Rs. 5 lacs before the Executing Court

within a period of four weeks and in the meanwhile, execution of the sale deed in favour of respondent-plaintiff was ordered to be stayed.

CM No.7465-C of 2022 was moved at the instance of appellant-defendant. It has been stated that the parties to the present appeal have entered into a settlement dated 20.02.2020 and as per the terms thereof, respondent-plaintiff has agreed to withdraw all his claims against return of Rs. 3 lacs to him.

Sh. B.S. Sewak, Advocate, who is appearing on behalf of respondent-plaintiff, admits the execution of compromise/settlement dated 20.02.2020 and submits his no objection for disposal of the present appeal in terms thereof. Accordingly, the prayer made in the application is hereby allowed. The main appeal is ordered to be disposed of in terms of the settlement dated 20.02.2020, which has been placed on record as Annexure A-2 along with the application. The same be made part of the decree as mark 'X'.

In view of the fact that the parties have settled their dispute by entering into a compromise, thus saving the time and resource of Court, it may be appropriate here to order for refund of Court fee deposited by the appellant. In this regard, I find support from decision rendered in the High Court of Judicature in **Madras V./s M.C. Subramaniam and Ors. (Special Leave Petition No.3063-3064 of 2021)**, decided on 17.02.2021 and in **Anuj Chaudhry and Another Vs. Sheyola Ram (Civil Revision No.7518 of 2018)** decided on 05.02.2020. The relevant part of this judgment is as

under:-

“In my considered opinion, the revision deserves to be allowed. A perusal of section 16 of the Court Fees Act shows that it lays down that where the Court refers the parties to a suit to any one of the mode of settlement of dispute then the plaintiff would be entitled to refund of the court fees. An Executing Court would also be a Court, as referred to in section 16 of the Court Fees Act. In the present case, the matter was specifically referred to the Mediation and Conciliation Centre by the Executing Court and the parties did arrive at an amicable settlement. In view of the fact that the parties had arrived at an amicable settlement, the plaintiffs would have been entitled to a certificate from the Court authorizing them to receive back the full amount of the fees paid in respect of the plaint. Section 16 of the Court Fees Act ought to be invoked in a matter where as compromise has been arrived at with the persuasion of the Court, inasmuch as, the same would encourage settlements by way of alternate dispute resolution mechanism. By reading down the provisions of section 16 of the Court Fees Act and limiting it only to the pendency of the suits and not matters pending before the Executing Court would be defeating the very purpose of the section. The rationale behind section 16 was to encourage the settlement of disputes between parties by way of alternate dispute resolution mechanism. By the limiting it in the manner done by the Court below, the very purpose of the section would be defeated.”

Disposed of accordingly.

November 30, 2022
Poonam Sharma

(HARKESH MANUJA)
JUDGE

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