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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-5099-2018 (O&M)
Date of decision : 30.08.2022

Gurinder Singh ... Appellant(s)

Versus

Jarnail Singh ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Parminder Singh, Advocate for the appellant.

ALKA SARIN, J. (ORAL)

Learned counsel for the appellant, at the outset, seeks permission to withdraw the present appeal on the ground that the sale deed has since been executed qua the suit property in the name of the wife of the plaintiff-appellant. Learned counsel for the appellant further prays for refund of the court fees stating that since the matter had been compromised, hence, the plaintiff-appellant would be entitled to the refund of the court fees as per Section 16 of the Court Fees Act, 1870 (hereinafter referred to as the '1870 Act').

In view of the statement made by learned counsel for the plaintiff-appellant, the present appeal is dismissed as withdrawn.

Qua the prayer made by learned counsel for the appellant for refund of the court fees, a pointed query was put to the counsel as to whether there was any written compromise or any other document to show that the matter had been compromised between the parties. Learned counsel is

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unable to refer to any such document.

Section 16 of the 1870 Act reads as under :

> *"16. Refund of fee - Where the Court refers the parties to the suit to any one of the mode of settlement of dispute referred to in Section 89 of the Code of Civil Procedure, 1908 (5 of 1908), the plaintiff shall be entitled to a certificate from the Court authorising him to receive back from the collector, the full amount of the fee paid in respect of such plaint."*

As per Section 16 of the 1870 Act, if the Court refers the parties to any suit to one of the mode of settlement referred to in Section 89 of the Code of Civil Procedure, 1908 (CPC), the plaintiff is entitled to a certificate from the Court authorizing him to receive back from the Collector the full amount of the fee paid in respect of the plaint. The said provision has been extended by way of numerous judgments to cases where the compromise has been effected out of the Court by the parties.

In the case of **Pradeep Sonawat Vs. Satish Prakash @ Satish Chandra [2015 (1) RCR (Civil) 955]** it has been held as under :

> *"7. Conjoint reading of Section 16 of the Act with Section 89 of CPC leaves no doubt that endeavor of the legislature is for settlement of cases by alternative disputes settlement mechanism. Be it Lok Adalat or out of Court settlement or Arbitration or Conciliation or Mediation, effort always is to end the litigation once for*

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all times to come. Settlement in terms of Section 89 CPC results in complete end to the litigation. Resort to appeal or revision statutorily is out of the legal arena. Merely because the matter for settlement was not taken up in daily Lok Adalat, which under the aegis of the Haryana State Legal Services Authority, is held every day in each Court in the State after Court hours, should not be taken to the prejudice of the petitioner-plaintiff.

8. Concept of daily Lok Adalat is not alien to the alternative dispute redressal machinery. Daily Lok Adalats in the State of Haryana are held in all the districts. Every Court of the Sessions Division, after court hours, gets converted into a daily Lok Adalat and judicial officers hold sittings for this, depending upon the workload of cases coming for settlement every day in each Court. This way there are as many daily Lok Adalats as are the number of Courts in that Sessions Division.

9. The question simpliciter posing for answer at this stage in this petition is, as to whether the court fee should be refunded to the petitioner- plaintiff, pursuant to the settlement arrived at between the parties, which was duly recorded by the Court and was accepted or not? Judgment dated 11.12.2012 [Annexure P/3] clearly

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reveals that the statement of the parties as also compromise was recorded by the Court and forms part of the record. After having been acted upon by the parties, the Court had passed the decree dated 11.12.2012 [Annexure P/3] in terms of the said compromise.

10. In tune with the provisions of Section 89 of CPC, endeavour is made by every Civil Court to decide the matter by one of the modes provided in Section 89 CPC for settlement between the parties. When such settlement is arrived at in terms of Section 89 CPC, provision of Section 16 of the Act, which is beneficial and benevolent provision in its domain and content needs to be invoked and the Court concerned is also required to inform the plaintiff that he is entitled to get back the court fee affixed by him on the plaint. Even if the plaintiff does not apply for the same, the Court acting suo moto invoking the provisions of Section 16 of the Act, should issue a certificate authorizing the plaintiff to receive back the court fee, paid in respect of such plaint, from the Collector.

11. Though, this matter is not in issue here, even then it may be mentioned that this provision would apply even in cases of counter claims in suits as also in appeals,

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counter objections and counter appeals.

12. To provide added locomotion to the provisions of Section 89 of CPC in consonance therewith, the Parliament had brought an amendment to the Court Fee Act, 1870 by inserting Section 16 therein. There is no denying to the fact that the object behind insertion of Section 16 to the Act was to encourage the litigants to adopt the alternative dispute resolution methodology for expeditious disposal of the disputes and with a view to end the litigation forever.

xxx *xxx*

16. Going a step further, it is felt that whether the compromise is with the persuasion of the Court or amongst the parties by themselves in terms of Section 89 CPC or otherwise, invocation of provision of Section 16 of the Act should be made in all cases so that settlements by way of alternative dispute resolution mechanism are encouraged."

Para 16 of the above reproduced judgment makes it amply clear that whether the compromise is with the persuasion of the Court or amongst the parties in terms of Section 89 CPC or otherwise, the provisions of Section 16 of the 1870 Act can be invoked.

Further a perusal of the sale deed which is stated to have been executed in favour of Gurprit Kaur by the defendant-respondent (Jarnail

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Singh) reveals that in the said sale deed Gurprit Kaur has been referred to as wife of Surjeet Singh son of Bhagwan Singh. However, the plaintiff-appellant in the present case is Gurinder Singh son of Ranjit Singh. There is no link between the plaintiff-appellant and the said Gurprit Kaur.

In view of the above, the request of learned counsel for the plaintiff-appellant for refund of the court fees cannot be acceded to and the same is accordingly rejected.

Appeal is dismissed as withdrawn as prayed for. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

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Yogesh Sharma

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

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