

2023:PHHC:097923

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-4245-2023 (O&M)
Date of Decision: July 31, 2023

Janak Raj (Deceased through his LRs)

...Petitioner

Versus

Rohit Gupta and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Dharam Bir Bhargav and
Mr.Kulwinder Bhargav, Advocates for the petitioner.

ARCHANA PURI, J.

Challenge in the present revision petition is to the order dated 15.05.2023 (Annexure P-3) passed by learned Court below, whereby, the request of the petitioner for refund of Court fee affixed on the appeal was declined

The background facts, in nutshell, as culled out, from the paper-book, are that, initially, Rohit Gupta and another had filed a suit against Janak Raj bearing No.CS-786-2014, thereby seeking specific performance of the agreement to sell dated 26.03.2013. However, vide judgment dated 18.01.2018, the defendant i.e. Janak Raj (petitioner) was held liable to return the earnest money to the tune of Rs.34 lakh, to the plaintiffs (respondents)

with interest @8% per annum, from the date of filing of the suit, till its realization.

Feeling aggrieved, Janak Raj (defendant before the Court below) filed an appeal bearing No.CA-72-2018. During the pendency of the appeal, a compromise was effected between the parties and joint statement of LRs of Janak Raj-defendant-petitioner(since deceased) and plaintiffs-respondents was recorded, vis-a-vis, the arrival of the compromise, which is reproduced in verbatim, as herein given:-

"The matter has been compromised between the parties and the compromise duly signed by the parties to the appeal i.e. appellants and respondents is Ex.C1. The present respondents are satisfied with the decree and received the entire decreetal amount alongwith interest and costs. With regard to the judgment and decree dated 18.01.2018 nothing is due, therefore, they do not want to pursue the present appeal and withdraw the same. In terms of compromise Ex.C1, the appeal may kindly be disposed off and be made part of the order. Court-fee affixed on the grounds of appeal may kindly be ordered to be refunded to the legal heirs of appellant-Janak Raj (since deceased) who are already on record."

Also, it is evident that that the matter was adjourned to 13.05.2023 for putting up before the National Lok Adalat. However, on that day the parties did not make appearance and accordingly, the matter was sent back to the Court concerned. Thereupon, the file was taken up by learned lower Appellate Court on 15.05.2023. In view of the arrival of compromise, the appeal was disposed of. Relevant portion of the order dated 15.05.2023 reads as herein given:-

“XXX

XX

XX

XXX

In view of the above facts and circumstances, the present appeal is disposed off in terms of compromise Ex.C1 which shall form part of the decree-sheet. Both parties shall abide by the terms and conditions of compromise Ex.C1. While recording the statement, the appellants had though also requested for the refund of court-fee, however, the said request is hereby declined. Decree-sheet be prepared ad compromise-deed Ex.C1 shall form part of the decree-sheet. Trial court record alongwith copy of the order be sent back. The appeal file be consigned to record room after due compliance.”

As observed in the joint statement dated 05.05.2023, since the respondents (plaintiffs before the Court below) had also got recorded that the Court fee affixed on the appeal be refunded to the LR's of Janak Raj, therefore, there is no necessity to issue notice to the respondents in the present revision petition.

Section 21 of the Legal Services Authority Act, 1987, reads as under:-

“21. Award of Lok Adalat.—(1) Every award of the Lok Adalat shall be deemed to be a decree of a civil court or, as the case may be, an order of any other court and where a compromise or settlement has been arrived at, by a Lok Adalat in a case referred to it under sub-section (1) of Section 20, the court-fee paid in such case shall be refunded in the manner provided under the Court Fees Act, 1870 (7 of 1870).

(2) Every award made by a Lok Adalat shall be final and binding on all the parties to the dispute, and no appeal shall lie to any court against the award.”

Section 16 of the Court Fees Act, 1870, 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.”

While considering the provisions of aforesaid Sections, it becomes evident that the intention of the legislature is to extend two sided relief to the parties, i.e. to get the matter settled and in the eventuality of settlement of the matter, to be entitled to refund of Court fee, as affixed by the plaintiff on the plaint. The purpose behind the insertion of this provision was to encourage settlement of disputes. Before the Court passes any order, with regard to the refund of Court fee, it has to be seen if the case was disposed, on the basis of statements of the parties. Whatsoever, may be the statements, the matter has been settled and that, in order to that effect that matter stands compromised or settled, thereupon, it would be incumbent upon the Court to order refund of Court fee.

Even though, in the case in hand, while considering the statement of the parties to the lis, to have mentioned about the return of the Court fee, in pursuance of arrival of the compromise, the Court below had declined the request for refund of Court fee. However, no reason, as such, has been assigned. In the given circumstances, when the matter has been compromised, a specific order should have been passed with regard to the refund of Court fee. However, the impugned order reveals that the Court simplicitor had declined the return of Court fee, without assigning any reason.

Considering the fact that the matter has been settled between the parties to the lis, as such, in the given circumstances, the present revision petition is accepted and the impugned order is set aside and LR's of

petitioner-defendant Janak Raj are held entitled to refund of Court fee, in pursuance of the aforesaid compromise.

July 31, 2023
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No