

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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RSA No.4233 of 2013 (O&M)
DATE OF DECISION : 02.06.2023

Om Prakash (deceased) through his legal representatives

.....Appellants

versus

JTPL Township Pvt. Ltd.

.....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Aashish Chopra, Sr. Advocate with
Ms. Meher Nagpal, Advocate for the appellants

Mr. Kunal Mulwani, Advocate for the respondent

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ALKA SARIN, J. (Oral):

CM-1315-C-2023

1. This is an application for decreeing the suit in terms of the compromise dated 28.01.2023 (Annexure A-1), a copy of which has been handed over in Court and is marked as Exhibit C-1.
2. Ms. Meher Nagpal, learned counsel appearing on behalf of the non-applicant/appellants states that she has no objection if the present application is allowed and the main appeal is disposed off in terms of the compromise.
3. In view of the above and for the reasons stated in the application, the same is allowed.

RSA No.4233 of 2013

4. Learned counsel for the parties are *ad idem* that the parties to the *lis* have since compromised the matter. The statements of the parties were recorded by this Court on 19.05.2023. Learned counsel for the parties state that they have no objection if the present appeal is disposed off in terms of the compromise dated 28.01.2023.

5. In view of the statements made by the parties which were recorded on 19.05.2023 and in view of the statements made by learned counsel for the parties in Court today, the present appeal is disposed off in terms of the Compromise, Ex.C1. The Compromise Ex.C1 shall be made a part of the decree-sheet. Pending applications, if any, also stand disposed off.

CM-4581-C-2023

6. This is an application under Section 16 of the Court Fees Act, 1870 for refund of court fee.

7. Learned senior counsel for the applicant-appellants would contend that in view of the compromise between the parties in the appeal (**RSA No.4233 of 2013**), the applicant-appellants are entitled to the refund of court fee and in this regard he has relied upon judgments passed by this Court in **Surender Kumar Vs. Hans Raj Mandi [2021 (2) RCR (Civil) 851]**; **Pritam Singh Vs. Ashok Kumar [2019 (1) Law Herald 721]**; and **Pradeep Sonawat Vs. Satish Prakash @ Satish Chandra [2015 (1) RCR (Civil) 955]**.

8. I have heard learned counsel for the applicant-appellants.

9. In **Pritam Singh's** case (*supra*), it has been held as under :

“7. By referring to Pradeep Sonawat Vs. Satish Prakash @ Satish Chandra, 2015(1) RCR (Civil) 955 (P&H), learned counsel for the appellant contended that Section 89 CPC would apply even in cases of counter claims in suits and also in appeals, counter objections and counter appeals and benefit of Section 16 of the Court Fee Act is available to the appellant in appeal in case of settlement irrespective of fact whether it was before the Lok Adalat or otherwise. The refund of Court fee cannot be denied merely because the matter has not been settled before the Lok Adalat. Learned counsel also relied upon A. Sreeramaiah Vs. South Indian Bank Ltd., Bangalore and another, 2007(5) RCR (Civil) 374, Kamalamma Vs. Honnali Taluk Agricultural Produce Cooperative Marketing Society Ltd., Honnali, 2010(1) AIR Kar. R 279 and CR No.874 of 2009 titled Tarun Juneja Vs. Hukam Singh decided on 15.09.2009.”

10. In the case of **Surender Kumar** (supra) it was held that :

“10. The counsel for the applicant-appellant contended that since the dispute between the parties has been settled, in the light of the principles enshrined in Section 16 of the Court Fees Act, 1870 and Section 90 CPC, the parties are entitled to be refunded the court fees paid by them in the Courts below as well as this Hon'ble Court irrespective of the fact that the settlement was reached without the intervention of the Court and outside Court.

11. *In support of his submission, the counsel has relied upon Pradeep Sonawat vs. Satish Prakash, AIR 2015 Pb. 130; Tarun Juneja & Ors. Vs. Hukam Singh, CR. No.874 of 2009 decided on 15.9.2009; Harish Kumar (deceased) through LRs vs. Pawan Kumar Sehgal, RSA. No.3645 of 2018 decided on 09.09.2019; Naresh Kumar vs. M/s Jasmer Singh Harphool Singh & Ors., RSA. No.1265 of 2019 decided on 10.09.2019; A. Sreeramaiah vs. South Indian Bank Ltd. & Anr., 2007(5) RCR (Civil) 374 [Karnataka High Court]; and Kamalamma & Ors. Vs. Honnali Taluk Agricultural Produce Coop. Marketing Society & Ors., 2009(33) RCR (Civil) 110 [Karnataka High Court].*

12. *A perusal of the decisions mentioned above makes it clear that court fee can be refunded to the parties where a compromise/settlement has taken place even outside the Court. This is also the intention behind the provisions of law relied upon by the counsel so that the process of alternate dispute resolution is encouraged.”*

11. In the case of **Pradeep Sonawat** (supra) it was held that :

“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

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 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, 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.

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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.”

12. Keeping in view the law laid in the cases of **Pritam Singh, Surender Kumar** and **Pradeep Sonawat** (supra), the application is allowed and the court fee affixed in the appeal (**RSA No.4233 of 2013**) is directed to be refunded to the appellants as per the Rules.

02.06.2023
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(**ALKA SARIN**)
JUDGE

<u>NOTE:</u> Whether speaking/non-speaking: Speaking Whether reportable: YES/NO
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