

CM-4107-4111-C-2021 IN/AND
RSA-1747-2015(O&M)

Date of Decision :23.02.2023

KRISHNA RANI AND ORS

...Appellants

Versus

KAUSHAL SAPRA

....Respondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Krishan Sharma, Advocate for
Ms. Neeru Bansal, Advocate for the applicants/appellants.

Mr. Mohit Aneja, Advocate for Mr. Rahul Sharma, Advocate
for the non-applicant/respondent.

B.S. Walia, J. (Oral)

CM No.4107-C of 2021

Application is for permission to place on record compromise
(Ex.-CX) as Annexure A/9 along with order dated 25.08.2021 passed by
the learned Civil Judge (Jr. Div.), Yamuna Nagar at Jagadhri as
Annexure A/10.

Learned counsel for the non-applicant/respondent states that
he has no objection to the aforementioned documents being taken on
record.

In view of the statement of learned counsel for the non-
applicant/respondent, the application is allowed. Documents (i.e.
compromise (Ex.CX) and order dated 25.08.2021 passed by the learned

Civil Judge (Jr. Div.), Yamuna Nagar at Jagadhri) attached with the application are taken on record as Annexures A/9 and A/10 subject to all just exceptions.

CM No.4108-C of 2021

For the reasons as are mentioned in the application, the same is allowed.

Applicants, details of whom are mentioned in paragraph No.2 of the application, are impleaded as L.Rs. of the deceased/appellant No.1, Krishna Rani for the purposes of the instant appeal only.

CM No.4109-C of 2021

For the reasons as are mentioned in the application, the same is allowed.

Applicants, details of whom are mentioned in paragraph No.2 of the application, are impleaded as L.Rs. of the deceased/appellant No.2 – Des Raj for the purposes of the instant appeal only.

Amended memo of parties is taken on record.

CM No.4110-C of 2021

Learned counsel for the applicants does not press the instant application.

Dismissed as not pressed.

**CM No.4111-C of 2021 &
RSA-1747-2015(O&M)**

[1] Application under Order 23 Rule 3 read with Section 151 CPC is for disposal of RSA No.1747 of 2015 in view of the compromise, Annexure A/9 dated 25.08.2021.

[2] Learned counsel for the non-applicant/respondent states that in view of amicable settlement of the dispute between the parties by way of compromise, Annexure A/9 dated 25.08.2021, he has no objection if the instant regular second appeal is disposed of in terms thereof.

[3] Main case is listed for hearing on 19.04.2023. However, with the consent of learned counsel for the parties, the same is preponed from 19.04.2023 to today and is taken on board for hearing today itself.

[4] Challenge in the instant regular second appeal is to the judgment and decree dated 31.03.2014 passed by the learned District Judge, Yamuna Nagar in Civil Appeal No.46 of 2010/2013 in case titled as Kaushal Sapra vs. Krishna Rani and others reversing the judgment and decree dated 31.03.2010 passed by the Court of the learned Civil Judge (Jr. Div.), Yamuna Nagar and decreeing the suit for possession of land in favour of the respondent/plaintiff while observing that the respondent/plaintiff would be entitled to take out of execution of the decree only in case the appellants / defendants failed to compensate him by exercising any of the three options mentioned in paragraph No.23 of the judgment.

[5] Learned counsel for the parties jointly pray that the appeal be disposed of in terms of compromise, Annexure A/9 dated 25.08.2021. Relevant extract of said compromise is reproduced as under:-

“4. That now with the intervention of common friends of both the parties and respectable persons of the locality, the parties have compromised the matter and as per compromise in lieu of 73 sq. yards area as has been held by the appellate Court of Sh. A.K. Singh Panwar Hon’ble District Judge, Jagadhri, the 2nd Party Prem Pal Wason etc. have paid a lump sum amount to the 1st Party i.e. legal heirs of the deceased Sh. Kaushal Sapra and as per compromise, the 1st Party has relinquished their all

claims over the suit property marked by letters A,B, C,D,E,F,G,H,I,J bearing Khasra No.11//13/3, 11//13/4 fully detailed and described in the plaint and rough site plan attached with the plaint.

5. *That the 2nd party has constructed a showroom in the above mentioned property and presently the 2nd party is running the business of Tyres under the name and style of 'Wason Automobiles' in the said property. As per compromise and mutual settlement, the 2nd Party has become owner in possession of property measuring 383 Sq. Yards measuring and bounded as under:-*

EAST : 62".7' – Street

WEST : 62".7' – Property of Duni Chand

SOUTH : 51".6' - Road

NORTH : 51".6' - Property of Subhash

being Khasra No.11//13/3, 11//13/4 situated at MaujaMamidi, Camp, Yamuna Nagar, Tehsil Jagadhri, District Yamuna Nagar.

6. *That it has been agreed between the parties that 1st Party shall have no right, title or interest of any kind over the suit property bearing Khasra No.11//13/3, 11//13/4 fully detailed & described in the plaint and rough site plan attached with the plaint and the 2nd Party shall remain owner in possession of the above mentioned property.*

7. *That as per compromise and mutual settlement, it has further been agreed between the parties that in view of the present compromise, the decree dated 31.03.2014 passed in Civil Appeal No.46 dated 2010/2013 has been fully satisfied being compromised and nothing remains to be executable in the said decree. Therefore, on the basis of present compromise, the 1st Party shall withdraw their execution No.06/2015 pending before the Executing Court by making their statements"*

[6] That in view of the amicable settlement of the dispute between

the parties, the instant regular second appeal is disposed of in terms of the

compromise, Annexure A/9 dated 25.08.2021 which shall be read as an integral part of this order. Parties shall remain bound by the terms and conditions as agreed upon and which form part of the compromise Annexure A/9 dated 25.08.2021. Judgment and decree of the Courts below stands modified as above.

23.02.2023
'Amit'

(B.S. Walia)
Judge

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