

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

106/227

**CM-2501-C-2023 and
CM-999-C-2023 in/and
RSA No.2647 of 2017 (O&M)**

Date of decision: 22.03.2023

Rakesh Das

....Appellant

V/s

Resham Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Akshay Bhan, Senior Advocate with
Mr. Santosh Sharma, Advocate for the applicant-appellant.

Mr. Ashwani Chopra, Senior Advocate with
Mr. B.S. Nahar, Advocate for the respondent No.1.

Mr. Tushar Sharma, Advocate for respondent Nos.2 and 3.

Ms. Harsh Rekha Kapoor, AAG Haryana.

VIKAS SURI, J. (Oral)

CM-999-C-2023

This is an application seeking preponement of the main appeal from 01.05.2023 to an earlier date on the ground that appellant-applicant has amicably settled the dispute with the contesting respondent, namely Resham Singh and the compromise effected has been recorded in writing. The Compromise Deed dated 01.12.2022 is appended as Annexure A-2.

Notice of the application.

Mr. Tushar Sharma, Advocate puts in appearance on behalf of respondent Nos.2 and 3 and has filed in Court separate power of attorney for respective respondents, which are taken on record. He submits that the dispute was only between the appellant and respondent No.1; and the other

respondents have been un-necessarily dragged in this litigation, as formal parties. Even otherwise, the dispute now stands amicably settled. They have no objection to the application seeking preponement and disposal of the appeal in terms of the compromise, being allowed by this Court.

Learned State counsel submits on similar lines that no relief has been claimed against respondent No.4 and apparently, the said respondent is impleaded only to promptly incorporate any interim order(s)/final result of litigation, in the record of rights.

Heard.

For the reasons mentioned in the application supported by affidavit and submissions noticed above, the application is allowed and hearing of the main appeal is advanced to today.

With the consent of the parties, the same is taken on board and called out for hearing.

CM stands disposed of.

CM-1000-C-2023

Learned counsel for the appellant-applicant seeks permission to withdraw this application with liberty to pursue the subsequent application (CM-2501-C-2023) on the same cause of action, seeking disposal of the main appeal in terms of the settlement and a fresh affidavit in support thereof has been filed with the said application. It is orally prayed that photocopy of the compromise deed dated 01.12.2022 appended as Annexure A-2 with the instant application, be detached from there and appended along with the fair typed copy of the same in CM-2501-C-2023.

Ordered accordingly.

CM stands disposed of.

CM-2501-C-2023 and RSA No.2647 of 2017

This is an application under Order 23 Rule 3 read with Section 151 of Civil Procedure Code for disposal of the main appeal in terms of the compromise deed dated 01.12.2022.

Notice of the application to learned counsel for the respondent non-applicants.

Mr. B.S. Nahar, Advocate, accepts notice on behalf of respondent No.1, Mr. Tushar Sharma, Advocate accepts notice on behalf of respondent Nos.2 and 3, and Ms. Harsh Rekha Kapoor, AAG Haryana accepts notice on behalf of respondent No.4.

Learned counsel for the appellant and for respondent No.1 submit in unison that the contesting parties have amicably settled their dispute out of Court, which is duly recorded in writing in the compromise deed dated 01.12.2022 (Annexure A-2) and pray that the instant appeal be disposed of in terms thereof.

The facts in brief are that plaintiff-respondent No.1 had filed a suit for cancellation of sale deed dated 29.10.1990 of plot No.31, road M 3 measuring about 244.36 sq. meters situated in village Shahpur (Qutab Enclave Complex) and injunction. The said suit was dismissed with costs vide judgment and decree dated 24.05.2014. The appeal preferred there against was allowed with costs vide judgment and decree dated 23.02.2017, by setting aside judgment and decree impugned. The sale deed dated 29.10.1990 was declared null and void. The defendants were directed to hand over the possession of the suit property to the plaintiff and they were also restrained from alienating the suit property. Aggrieved by the same,

defendant-respondent No.1 has carried further appeal to this Court by way of the present regular second appeal.

Learned counsel for the parties are *ad idem* that the concerned parties have amicably settled their dispute and there is no embargo in accepting the prayer made in the present application.

Learned counsel for the appellant submits that appellant Rakesh Das is also present in person for the hearing today.

Learned counsel appearing for respondent Nos.2 and 3 submits that before the trial Court, written statement was filed on their behalf wherein it was specifically pleaded that they have been unnecessarily dragged in the present controversy and they shall abide by any order passed by the Court. Learned counsel, on instructions, submits that they have no objection to the present appeal being disposed of in terms of the compromise appended as Annexure A-2 to the application.

Learned State counsel also submits that she has no objection to the aforesaid and no relief has been claimed against respondent No.4.

Learned counsel for the appellant and respondent No.1 have acknowledged the photocopy of the compromise deed dated 01.12.2022 (Annexure A-2), which was originally filed with CM-1000-C-2023, to be the correct and true copy of the original compromise deed.

Heard learned counsel for the parties.

Keeping in view of the factual matrix of the case, submissions advanced and consensus of the parties, noticed above, the instant application is allowed. Resultantly, the impugned judgment and decree are modified and instant regular second appeal is disposed of in terms of the compromise

deed dated 01.12.2022 (Annexure A-2), which shall form a part of the decree. Formal decree sheet be prepared accordingly.

The regular second appeal is disposed of in the aforesaid terms.

Pending applications, if any, also stand disposed of.

No order as to costs.

(VIKAS SURI)
JUDGE

March 22, 2023
Ajay/vcgarg

Whether speaking/reasoned:	Yes
Whether reportable:	No