

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

RSA-1305-1987(O&M)
Date of decision : 26.04.2024

Digamber Jain Sabha Registered Ambala Cantt. And others

... Appellants

Versus

A.S. Seth

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.O.P. Goyal, Senior Advocate with
Mr.Yugank Goyal, Advocate
for the appellants.

Mr.Kanwaljit Singh, Senior Advocate with
Mr.Robin Gill, Advocate
for the respondent.

VIKAS BAHL, J.(ORAL)

1. This is the defendants' second appeal. Plaintiff had filed suit for permanent injunction restraining the defendants from raising any sort of construction or erection or in any way blocking the way and access to the premises no.170/13-14, from the Staff Road, Ambala Cantt. The said suit was decreed to the limited extent in the following terms:-

“Relief

19. As a result of my issuewise findings discussed above, the suit of the plaintiff is decreed only to this extent that the plaintiff would be entitled to 15 ft wide passage which is pre-existing at the spot in order to have access to his property with no order as to costs. Rest of the suit of the plaintiff is hereby dismissed. Decree sheet be prepared in accordance with judgment & the file be consigned to the record room in due course of law.

Announced in open Court.
Dt.29.7.1986

Sd/-
Sub Judge II Class,
Ambala”

2. The plaintiff being aggrieved on account of the fact that the suit had only been partly decreed, had filed an appeal before the Additional District Judge, Ambala and the Additional District Judge, Ambala vide judgment dated 24.12.1986 had accepted the said appeal and decreed the suit of the plaintiff in the following terms:-

“Relief

19. In view of my findings on the issues above, the appeal stands accepted. The judgment and decree of the trial Court are set aside and the suit of the plaintiff is decreed and the defendants are restrained from raising any construction or any other erection in any way to block the frontage and access of the property No.170-13-14. However, the parties are left to bear their own costs.

Pronounced in open Court.

Dt.24-12-1986.”

3. The defendants aggrieved against the above said judgment have filed the present appeal.

4. During the pendency of the appeal, learned senior counsel for the appellants and learned senior counsel for legal representatives of plaintiff-respondent have jointly submitted that the matter has been compromised and have prayed that the present appeal be disposed of in terms of the said compromise and the judgment and decree of the Courts below be modified to the said extent. Both the learned senior counsels have submitted that CM-4456-C-2024 has been filed in the present case for placing on record the compromise dated 19.04.2024 as Annexure C-1. The relevant portion of said compromise is reproduced hereinunder:-

“Now this compromise deed witnessth as under: -

1. That the father of 2nd part Tejinder Singh had filed suit for permanent Injunction for restraining the appellants from raising any sort of construction or erection or blocking the way and access to the premises No.170/13-14 from Staff Road, Ambala Cantt.

2. *That the said suit was partly decreed by the Learned Court of Sh. G. S. Kotla, Sub Judge 2nd class, Ambala Cantt in Civil Suit No. 27 of 1979/84 dated 29.07.1986, in favour of the second part to the extent that second part would be entitled to 15ft wide passage which is pre-existing at the spot in order to have access to his property.*
3. *That against the judgment and decree dated 29.07.1986 the appeal was filed by the respondent before the appellant Court claiming therein for grant of relief of permanent injunction as claimed in the civil suit referred above. The appeal was allowed by the Learned court of Mrs. Nirmal Yadav, Additional District Judge, Ambala Cantt in Appeal No.178 of 1986, vide judgment/ decree dated 24.12.1986.*
4. *That against the judgment and decree dated 24.12.1986 passed by the Learned court of Mrs Nirmal Yadav, Additional District Judge, Ambala Cantt, the appellants filed appeal before the Hon'ble High Court of Punjab and Haryana at Chandigarh which has been pending since then.*
5. *That during the pendency of the appeal both the parts have compromised between themselves and the first part has agreed to comply with the judgement and decree dated 29.07.1986 passed by the Learned court of Sh. G. S. Kotla, Sub Judge 2nd class, Ambala Cantt and the second part has given his consent to give up his claim in passage beyond 15ft wide in terms of the judgement and decree passed by the Learned Court of Civil Judge, Ambala Cantt subject to the first part compensate the second part to the extent of Rs.12,00,000/- on account of sufferings meted to him and on account of prolonged litigation expenses incurred by him on account of Court fee and Counsel Fee etc and for forgoing his right to use the passage in terms of the judgment and decree passed by the appellate Court.*
6. *That the first part has agreed to pay the said amount of Rs.12,00,000/- and has paid the same vide bank Draft No. 630773 dated 16.04.2024 for Rs.9,00,000/- (Rs. Nine Lacs) and Draft No.630774 dated 16.04.2024 for Rs.3,00,000/-(Rs. Three Lacs).*
7. *That in view of the above the second part has agreed that the appeal filed on behalf of the first part may be allowed by setting aside the judgment and decree dated 24.12.1986 passed by the Learned court of Mrs. Nirmal Yadav, Additional District Judge, Ambala Cantt. and binding the first part by the Judgment and decree dated 29.07.1986 passed by the Learned court of Sh. G. S. Kotla Sub Judge 2nd class, Ambala Cantt and holding the second part entitled to the passage to the extent of 15ft wide in order to access to his property.*

8. *That both the parts undertake to abide by the terms and conditions of the compromise. The same shall also be binding upon their legal heirs, successors, assignee and the compromise deed may be read as the part of the order of the judgment and decree passed by this Hon'ble Court.*
IN WITNESS WHEREOF BOTH THE PARTS HAVE, set their hands on this compromise deed at Ambala Cantt on the day, month and year mentioned above in presence of following witness.”

It is submitted by learned senior counsel for the appellants as well as learned senior counsel for legal representatives of the respondent that the said compromise has been entered into without any pressure or undue influence and is voluntary and is in the best interest of the parties and would help in bringing out peace and harmony between the parties. Learned senior counsel for the appellants has handed over two demand drafts in total amounting to Rs.12 lacs in pursuance of the said compromise to Tejinder Singh son of Avtar Singh Seth, who is stated to be present in Court and has been recognized by his counsel. Learned senior counsel for legal representatives of the respondent has reaffirmed the said fact.

5. Keeping in view the above said facts and circumstances, the present appeal is disposed of in view of the said compromise and the judgments and decrees of the both the Courts below are modified in terms of the said compromise and the terms of the compromise would be read as part of the decree.

(VIKAS BAHL)
JUDGE

April 26, 2024
Davinder Kumar

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