

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 969 of 1990 (O&M)

Date of Decision: 27.02.2024

Nabi Khan and Others

... Appellant(s)

Versus

Kamaluddin and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Gurdial Singh Jaswal, Advocate
for the appellant(s).

Mr. B.S.Khehar, Advocate
for respondent No.2 and 3.

Mr. Sanjiv Gupta, Advocate
for respondent No.4.

Anil Kshetarpal, J.

CM-2073-C-2024

1. In view of the prayer made in the application, which is supported by an affidavit, the same is allowed, subject to all just exceptions.

The proposed legal representatives, named in para 2 of the application, are the Class-I heirs of appellant No.2-Mahmuda who is stated to have died on 24.10.2012. They are permitted to be brought on record as the legal heirs of appellant No.2-Mahmuda, for the purpose of prosecuting the present appeal.

CM-2074-C-2024

2. In view of the prayer made in the application, which is supported by an affidavit, the same is allowed, subject to all just exceptions.

The proposed legal representatives, named in para 2 of the application, are

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the Class-I heirs of appellant No.3-Noor Mohammad who is stated to have died on 16.09.2018. They are permitted to be brought on record as the legal heirs of appellant No.3-Noor Mohammad, for the purpose of prosecuting the present appeal.

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3. The learned counsel representing the appellants and respondent No.2 and 3 submits that the parties have entered into a settlement. In fact, appellant No.1-Nabi Khan's son entered into a settlement before the Mediation and Conciliation Centre at Palwal. The legal representatives of appellant No.2-Mahmuda and appellant No.3-Noor Mohammad have also entered into settlement on 13.02.2024, a copy of which has been attached with the application.

4. In these circumstances, the learned counsel representing respondent No.2 and 3 submits that the parties have entered into a settlement and the appeal be disposed of in accordance therewith.

5. Respondent No.4 is Pehlu. It is evident that Pehlu, Mauzi Khan, Nabi Khan, Mahmuda and Noor Mohammad filed a joint suit in which Pehlu Khan entered into a settlement and withdrew the entire suit. Nabi Khan, Mahmuda and Noor Mohammad filed the first appeal claiming that Pehlu has no right to withdraw the suit on their behalf. The appeal was dismissed on the ground that it was filed beyond the prescribed period of limitation. Thus, Pehlu has already settled his dispute. Plaintiff No.2-Mauzi Khan never assailed the correctness of the withdrawal of the suit by the Trial Court.

6. Keeping in view the aforesaid facts, the present appeal is disposed of in terms of the settlement which is taken on record as Ex.C1 and

shall form part of the decree.

(Anil Kshetarpal)
Judge

February 27, 2024
“DK”

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