

2024:PHHC:049465

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

RSA No.819 of 2023 (O&M)
Date of Decision: 10.04.2024

Balbir Singh
.....Appellant.
Versus
Amandeep Kaur
.....Respondent.

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Argued by:- Ms. Sonia G. Singh Samber, Advocate
for the appellant.

MEENAKSHI I. MEHTA, J.
CM No.785-C of 2024

This application has been moved on behalf of the applicant-appellant-defendant (here-in-after to be referred as 'the applicant') for seeking permission to withdraw the appeal bearing **RSA No. 819 of 2023** in view of the orders passed on 12.04.2023 and 13.05.2023 as well as the statement, as recorded in the Execution Petition.

A perusal of the afore-mentioned orders and the statement (Annexures A-4, A-6 and A-5 respectively) reveals that on 12.04.2023, the counsel for the Decree-Holder (respondent-plaintiff) had made a statement in ***Execution Petition No.12 of 2013*** titled as '***Amandeep Kaur Vs. Balbir Singh***' that the matter had been compromised with the Judgment-Debtor (the applicant) and therefore, the Decree-Holder did not want to pursue the said Execution Petition and the same be dismissed as withdrawn for having been fully satisfied and then, the matter had been referred to National Lok

Adalat vide order Annexure A-4 and the above-said Execution Petition was dismissed accordingly vide order Annexure A-6.

Keeping in view the afore-discussed facts and circumstances, the present application is allowed as prayed for.

RSA No.819 of 2023

Dismissed for having been withdrawn as prayed for in **CM No.785-C of 2024**.

CM No.787-C of 2023

By filing the instant application under Section 89 read with Section 151 CPC and Section 16 of the Court-fees Act, 1870, the applicant has sought the refund of the total Court-fees, while averring that the parties have amicably settled their dispute in the above-referred appeal.

Heard on this application.

The respondent-plaintiff had filed the Civil Suit for seeking a decree for recovery of Rs.13.3 lac from the applicant and the trial Court had decreed the same on 21.11.2016. The appeal preferred by the applicant to assail the judgment and decree as rendered by the trial Court, also ended in its dismissal by the Lower Appellate Court vide the judgment and decree as passed on 13.12.2022 and feeling aggrieved therefrom, the applicant had preferred the afore-referred Regular Second Appeal (RSA) to lay challenge to the same. From orders Annexures A-4 and A-6 and statement Annexure A-5, it transpires that during the pendency of the above-said appeal (RSA) before this Court, the parties arrived at an amicable settlement/compromise in respect of their dispute in the Execution Petition and the same had been

dismissed as withdrawn in the National Lok Adalat, for having been fully satisfied, as discussed earlier.

Though the applicant has sought the refund of the Court-fee in total but it is worth-while to mention here that the Apex Court has recently observed in **High Court of Judicature at Madras Rep. by its Registrar General Vs. M.C. Subramaniam and others, 2021(2) R.C.R (Civil) 228** that “*where the parties privately agreed to settle their dispute outside the Court without any reference by the Court, they were entitled to the refund of Court-fees and the importance of the private amicable negotiation between the parties could not be understated and the petitioners were directed to refund the Court-fee deposited by respondent No.1 for Appeal Suits*” and the present matter is squarely covered under these observations because in the afore-cited case also, respondent No.1 had filed the Appeal Suits in the High Court against the judgments passed by the *Munsif* Court and District Court in the Original Suits as filed by respondent No.2 for the recovery of money and during the pendency of the Appeal Suits, the parties had entered into an out of the Court settlement and those Appeal Suits were sought to be withdrawn while praying for refund of the Court-fee deposited by respondent No.1 and the said prayer was accepted by the High Court but when the Registry orally refused to refund the Court-fee, respondent No.1 moved Civil Miscellaneous Applications which were allowed by the High Court vide common order and the petitioner therein impugned the same in Hon’ble Supreme Court and then, the direction qua the refund of the Court-fee, deposited in the Appeal Suits only, had been given.

In the light of the above-quoted observations, the application in hand is, hereby, partly allowed to the effect that the applicant-appellant is entitled to the refund of the Court-fees, as affixed on/appended with the afore-referred Regular Second Appeal only and the Registry is directed to do the needful accordingly, while complying with the relevant procedure/Rules as prescribed for this purpose.

April 10, 2024
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No