



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

114+269

RSA-1609-2021 (O&M)
Date of Decision: 25.09.2024

Prithvi Pal Singh (since deceased) through his LRs
....Appellants
Versus

Registered Partnership Firm M/s Mukund Trading Company
Commission Agents
....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Prerak Sheoran, Advocate for
Mr. Sanjay Verma, Advocate
for the appellants.

Mr. Rishab Garg, Advocate
for the respondent.

VIKAS SURI, J. (Oral)

CM-7325-C-2024

Learned counsel for the applicant-appellants submits that main appeal is listed in the urgent list today itself, thus, the present application has been rendered infructuous.

Disposed of as having been rendered infructuous.

CM-7323-C-2024 and CM-7324-C-2024

These are two applications, one for withdrawal of the main appeal in view of out of Court compromise arrived at between the appellants and respondent on 23.01.2024 (Annexure A-1); and the other one for refund of court fees affixed at the time of filing of the main appeal.

Upon notice of the said applications, Mr. Rishab Garg, Advocate accepted notice on behalf of the respondent and acknowledged the compromise having been effected between the parties.

Learned counsel for the respondent submits that in view of the compromise, an amount of Rs.11,00,000/- has been received by the respondent before the executing Court on 23.01.2024 and the execution petition has been disposed of as being fully satisfied.

Heard learned counsel for the parties and perused the record with their able assistance.

It is not disputed that parties have amicably settled their dispute, which is reduced into writing as compromise dated 23.01.2024 (Annexure A-1). The said compromise has been acted upon by the parties, which has been placed on record before the executing Court as Ex.C1. The execution petition has since been disposed of as being fully satisfied vide order dated 23.01.2024, which is reproduced hereunder:

“DH Sushil Kumar has made a statement that he has compromised the matter with JD and today he received Rs.11,00,000/- from JD and nothing is due against JD and he placed on record copy of compromise Ex.C-1. He further stated that he withdraws the present execution being fully satisfied and no person will take any action from the firm. Statement recorded separately.

In view of the statement so made by decree holder, the present execution petition is hereby disposed of as being fully satisfied. File be consigned to the record room after due compliance.”

In the light of above, the applicants are permitted to withdraw the appeal.

Learned counsel for the appellant/applicants has placed reliance upon ***High Court of Judicature at Madras represented by its Registrar General vs. M.C.Subramaniam and others, (2021) 3 SCC 560*** and ***Rajiv Kumar and others vs. Amrit Varsha and others, 2022(4) PLR 262.***

In the case at hand, the parties have arrived at an out of Court settlement, recorded as compromise dated 23.01.2024 (Annexure A-1). The ratio of the judgments noticed above are fully applicable to the facts and circumstances of the present case and accordingly, the appellant through LRs is entitled to refund of Court fee. Thus, it is ordered that the appellant/applicants be refunded the Court fee deposited by them with regard to the instant regular second appeal, as per rules.

Both the applications stand disposed of accordingly.

RSA-1609-2021

Dismissed as withdrawn.

September 25, 2024

Varinder

**(VIKAS SURI)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No