



RSA-325-2019 (O&M) :1:

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

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**RSA-325-2019 (O&M)
Date of Decision: 21.05.2024**

PAWAN KUMAR

... Appellant

VERSUS

SURENDER LOHIA AND ANOTHER

....Respondents

CORAM: HON'BLE MRS. JUSTICE RITU TAGORE

Present: Mr. Ajay Jain, Advocate
for the appellant.

Mr. Vikrant Bhardwaj, Advocate
for the respondents.

RITU TAGORE, J. (Oral)
CM-5421-C-2024

This application is for placing on record Annexures R-1
and R-2.

Application is allowed as prayed for.

Annexure R-1 and R-2 annexed with the application are
taken on record, subject to just exceptions.

CM-3065-C-2024 and CM-3066-C-2024 in/and
RSA-325-2019 (O&M)

1. Prayer in CM-3065-C-2024 is for withdrawal of appeal
(RSA-325-2019).

2. The appellant/plaintiff instituted a suit for possession by
way of specific performance of agreement to sell dated 12.06.2008
executed by respondent No.1 for himself and being responsible for
respondent No.2 in favour of the appellant/plaintiff in respect of the suit



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property detailed in the plaint. The learned trial Court vide judgment and decree dated 21.04.2015 dismissed the suit filed by the appellant/plaintiff. Appeal preferred by the appellant against the judgment and decree of the trial Court, *ibid* was also dismissed by the learned first Appellate Court vide judgment and decree dated 23.07.2018, that led to the filing of the present Regular Second Appeal.

3. Learned counsel for the appellant submits that during the pendency of the appeal, the parties to the lis have settled their dispute outside the Court, as such the appellant-plaintiff does not intend to continue with the present appeal any further and wants to withdraw the same. The learned counsel further submits that the Court fee paid by him be allowed to be refunded to the appellant. In support of his arguments referred to the judgment passed by Apex Court in *High Court of Judicature at Madras Rep. by its Registrar General v. M.C. Subramaniam and others, 2021(2) RCR (Civil) 228* and to the decisions of co-ordinate Bench of this Court in *Surender Kumar v. Hans Raj Mandi, 2021 (2) RCR (Civil) 851, Rajiv Kumar and others v. Amrit Varsha and others, 2022 (4) PLR 262* and of Karnataka High Court in *Kamalamma and others v. Honnali Taluk Agricultural Produce Co-operative Marketing Society Ltd., Honnali and others, (2010) 1 AIR Kar. R 279.*

4. Application is duly supported by an affidavit of applicant-appellant.

5. The counsel for the respondents verify and affirms the settlement arrived between the parties and contends that, in view of the



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affidavits of the respondents there is no objection in the refund of the Court fee to the appellant-petitioner.

6. The Co-ordinate Bench of this Court in ***Surender Kumar and Rajiv Kumar and others (supra)*** in case of compromise/settlement effected between the parties, outside the Court, permitted the refund of the Court fee to the parties.

7. In ***Kamalamma and others (supra)*** the Court observed as follows:-

“6. Whether the parties to a suit or appeal or any other proceeding get their dispute settled amicably through Arbitration of meditation or conciliation in the Lok Adalath, by invoking provisions of Section 89, C.P.C., or they get the same settled between themselves without the intervention of any Arbitrator/Mediator/Conciliators in Lok Adalath etc., and without invoking the provisions of Section 89, Civil Procedure Code, the fact remains that they get their dispute settled without the intervention of the Court. If they get their dispute settled by invoking Section 89, C.P.C., in that event the State may have to incur some expenditure but, if they get their dispute settled between themselves without the intervention of the Court or any one else, such as arbitrator/mediator etc., the State would not be incurring any expenditure. This being so, I am of the considered opinion that whether the parties to a litigation get their dispute settled by invoking Section 89, C. P. C. or they get the same settled between themselves without invoking Section 89, Civil Procedure Code, the party paying Court Fees in respect thereof should be entitled to the refund of full Court Fees as provided under Section 16 of the Court Fees Act, 1870.”

8. Admittedly parties have settled the matter privately, outside the Court. The Court always lean in favour of amicable settlement between the parties.

9. In view of the above factual and legal position, the prayer

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of the petitioner is allowed and he is permitted to withdraw the appeal
Furthermore, petitioner is entitled to the refund of Court fee
deposited/paid by him either before the trial Court, first Appellate Court
and this Court.

10. Pending applications, if any, also stand disposed of
accordingly.

(RITU TAGORE)
JUDGE

21.05.2024
Rimpal

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