IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-6659-C-2024 in/and
RSA-1064-2020 (O&M)
Decided on: 12.08.2024

Harish Arora

…Appellant

Versus

State Bank of India and others

...Respondents

CORAM: HON'BLE MRS JUSTICE RITU TAGORE

Present: Mr. Sushil Bhardwaj, Advocate
for the appellant.

Mr. Ashwani Kumar, Deputy Manager
for respondent-Bank.

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RITU TAGORE, J.

1. Prayer in CM-6659-C-2024 is for withdrawal of appeal (RSA-1064-2020).

2. Pursuant to the notice to the respondent-bank, Mr. Ashwani Kumar, Deputy Manager appeared and placed on record, copy of his I-card and the communication dated 30.11.2023 made by Chief Manager, Karnal to the appellant Harish Arora, the guarantor in the loan account of Amit Arora and Surinder Pal Arora, indicating that pursuant to the compromise arrived in National Lok Adalat, held on 08.09.2023 at Karnal, the respondent-Bank has received full and final payment of Rs.2.50 lacs from the appellant and

the education loan account bearing No.10868621427/31300014604 of Amit Arora and Surinder Pal Arora has been closed and settled under the compromise.

3. The respondent No.1-bank, instituted a suit for recovery of Rs.5,39,267/- including interest upto 06.01.2011 and pendent lite and future interest @ 12.35% per annum with quarterly rest against the appellant Harish Arora and others, claiming that respondent No.2 and 3/defendants No.1 and 2 obtained the education loan facility from the plaintiff-bank. The appellant/defendant No.3 stood guarantor for respondents No.2 and 3/defendants No.1 and 2 for repayment of the loan and the interest accrued thereon and executed the documents in this regard. It is claimed by the respondent No.1-Bank that the defendants failed to adhere to the financial discipline and defaulted in repayment of the loan amount that necessitated the bank to file the suit. The learned trial Court vide judgment and decree dated 27.09.2018 decreed the suit. Appeal preferred by the appellant-Harish Arora against the judgment and decree of the trial Court, (*ibid)* was also dismissed by the learned first Appellate Court vide judgment and decree dated 09.10.2019 that led to the filing of the present Regular Second Appeal.

4. Learned counsel for the appellant submits that during the pendency of the appeal, the parties to the *lis* have settled their dispute in National Lok Adalat, as such, the appellant does not intend to continue with the present appeal and wants to withdraw the same. The learned counsel further submits that the Court fee paid by the appellant be allowed to be refunded to him. 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***.

5. Application is duly supported by an affidavit of applicant-appellant, the order dated 08.09.2023 passed before the Permanent Lok Adalat, Public Utility Service, Karnal (Annexure A-1), and the communication dated 30.11.2023 of the Bank (Anneuxre A-2) indicating the settlement of the loan account under the compromise.

6. Mr. Ashwani Kumar, Deputy Manager verify and affirms the settlement arrived between the parties and contends that loan account has been closed and settled under the compromise and nothing is due towards the education loan account of Amit Arora and Surinder Pal Arora.

7. 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 even outside the Court, permitted the refund of the Court fee to the parties.

8. 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 or mediation or conciliation in the Lok Adalat, 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."

9. Admittedly, parties have settled the matter before the Permanent Lok Adalat, Public Utility Service, Karnal, the loan account has been settled and closed. The Court always lean in favour of amicable settlement between the parties.

10. In view of the above factual and legal position, the prayer of the appellant-applicant is allowed and he is permitted to withdraw the appeal. Furthermore, appellant is entitled to the refund of Court fee, if any, deposited/paid by him either before the first Appellate Court and this Court.

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

(RITU TAGORE)
JUDGE

12.08.2024
Rimpal

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