

IN THE HON'BLE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA.

OSA No.14 of 2002 with CMP No.402 of 2010.

Date of decision : 30.04.2010.

General Sales Ltd.

...Appellant

Versus

Jagdish Rana

...Respondent

Coram:

The Hon'ble Mr. Justice Dev Darshan Sud, J.

The Hon'ble Mr. Justice Kuldip Singh, J.

*Whether approved for reporting?*¹ No.

For the Appellant: Mr.K.D. Sood, Advocate with
Mr.U.R.Dubey son of Shri R.P.
Dubey authorized representative of
the appellant.

For the respondent: Mr.Ajay Kumar, Advocate.

Dev Darshan Sud, J.

The parties to this appeal have compromised the disputes subject matter of this appeal. **CMP No.402 of 2010** has been filed containing the terms on which the parties have settled the dispute *interse* amongst themselves. This application has been signed by the learned counsel for the parties, the Director of the appellants as also the respondent all of whom are present in Court today. The compromise is also supported by the respective affidavits of the

¹ *Whether Reporters of Local Papers are allowed to see the judgment?* Yes.

authorized representative of the appellants as also by the respondent, agreeing, accepting and undertaking to abide the compromise. The compromise is exhibited as Ex.A-1 and accepted to be correct by both the parties. The terms on which the appeal has been settled are:-

"4. That as a result of the negotiations held by and between the parties to the said OSA and with a view to avoid protracted litigation, the parties to the said OSA have agreed to settle their disputes once for all for a total consideration of Rs.4,50,00,000/- (Rs.Four Crores and Fifty Lacs only) (hereinafter referred to as the compromised/decretal amount) which the Defendant Shri Jagdish Rana has agreed to pay to the Appellants in the OSA in the manner provided herein as under:-

(i) Out of the total compromise/decretal amount of Rs.4.50 Crore (Rs.Four Crores and Fifty Lacs only), the defendant/respondent has paid to the Plaintiff/Appellants a sum of Rs.50,00,000/- (Rs.Fifty Lakhs only) by way of cheque No.765689 dated 22/4/2010 payable in favour of M/s.General Sales Ltd., drawn on ICICI Bank Limited, The Mall, Shimla.

(ii) The balance compromise/decretal amount of Rs.4 Crore (Four Crores only) shall be paid by the defendant/respondent to the

Plaintiffs/appellants on or before 31st October, 2010. In case the defendant/respondent fails to pay the balance compromise/decretal amount of Rs.4.00 Crores (Four Crores only) as agreed by the stipulated date, then in that eventuality, the defendant/respondent shall be liable to pay interest on the said balance compromise/decretal amount @ 1% per month w.e.f. 01.11.2010 onward till the date of full payment. It is further agreed between the parties that till the satisfaction of the decree/payment of the full compromise/decretal amount, the Plaintiff/appellants shall have a charge/lien on the suit property and in the event of failure in payment of compromise/decretal amount by the Defendant/respondent, the appellants/plaintiffs shall be entitled to recover the same by sale of the suit property in addition to other modes of recovery as may be available to them under the law. The suit/OSA of the appellants/Plaintiffs be accordingly decreed and this compromise be made part and parcel of the decree. Copies of Resolutions are filed as Annexures A-1 and A-2.

It is, therefore, prayed that the compromise may very kindly be recorded

and a decree for recovery of Rs.4.50 crores (Rs.Four Crores and Fifty Lacs only) be passed in the suit/OSA in terms of the above compromise in favour of the Plaintiffs/Appellants and against the Defendants/Respondent to be paid in the manner mentioned above leaving the parties to bear their own costs."

This appeal is accordingly disposed of in terms of Ex.A-1. Let a decree be drawn up in these terms. There shall be no order as to costs.

All miscellaneous applications are disposed of.

(Dev Darshan Sud)
Judge

April 30, 2010
(aks)

(Kuldip Singh)
Judge.