



IN THE COURT OF DIVISIONAL COMMISSIONER, JAMMU
Present: (Dr. M.K. Bhandari)IAS

File No. 15/Appeal
2016

Date of Institution
13-06-2016

Date of Decision
22-12-2017

1. Shivani Singh W/o Ajay Singh
2. Diyani Singh W/o Jai Vikram Singh
Both daughter of Daljit Singh R/o Barnai through their attorney
3. Sunil Kumar Gupta R/o 42 C / C Gandhi Nagar, Jammu.

(Appellants)

VERSUS

1. Smt. Krishan Devi W/o Swaran Singh.
2. Ravinder Singh
3. Rashpal Singh
4. Joginder Singh
5. Badahur Singh
6. Surinder Singh
7. Balbir Singh
8. Narayan Singh, All sons of Swaran Singh
9. Darshan Devi,
10. Renu Bala
11. Kailash Devi
12. Radha Devi, all D/o Swaran Singh
13. Smt. Geetanjali Pathania W/o Hemant Pathania,
14. Jagdish Singh S/o Haqiqat Singh.
All resident of Barni, Tehsil Jammu

(Respondents)

In the Matter of: Appeal against the order dated 23-04-2016 passed by Regional Director Survey and Land Records Ex-Officio Settlement Officer, with the Power of Collector under Land Revenue Act, in file No. 1350/SOJ whereby the appeal filed by the appellant against the order of ASO dated 23-04-2013 has been dismissed.

Prayer for setting aside the same.

ORDER

1. The present appeal has been filed against the order dated 23-04-2016 passed by Regional Director, Survey and Land Records, Ex-Officio Settlement Officer, with the Powers of Collector under Land Revenue Act, in file No.

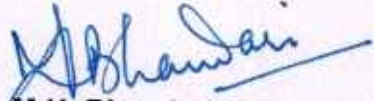
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1350/SOJ whereby the appeal filed by the appellant against the order of ASO dated 23-04-2013 has been dismissed.

2. During pendency of appeal, both the parties entered into a compromise out of court and presented the Compromise Deed before this court on 25.08.2017. The said deed was pending disposal when an application came to be filed by applicant Hans Raj S/o Man Singh R/o Barnai through counsel on 09.04.2017 for impleadment as party in the matter.
3. After receiving the application, notice for both the parties was issued and the matter was fixed for 13.10.2017. On completion of service of the parties the matter was fixed for 02.12.2017 for arguments. When the case came up for hearing on 02.12.2017, counsels for all the parties were present. Counsel for appellants filed an application seeking withdrawal of the present appeal.
4. With regard to this application for withdrawal of the appeal filed by the counsel for appellants, Counsel for the applicant raised objection and pleaded that his application shall become infructuous and there will remain no cause of action for him. He pleaded the adjournment of the case for filing objections to the withdrawal application.
5. On the other hand, counsel for appellant contended that it is his appeal, and that he is not interested in contesting the case further, and wants to withdraw it. Moreover both the parties have entered into a compromise out of the court which would not infringe any right of the applicant. Further, if the latter is aggrieved of any order, he is within his rights to file an appeal/ revision.
6. Counsel for respondents stated that he has no objection if appellants withdraws the appeal. He submitted that applicant cannot stop appellant from withdrawing the appeal.
7. I have heard the parties. The issue pertains to the application of appellants filed for withdrawal of the appeal, whereby applicant who has filed application for impleadment as party in the matter has raised objections and has pleaded that appellants must not be not allowed to withdraw the appeal, failing which his appeal shall become infructuous.

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8. But on the other hand when counsel for appellant contended that if he chooses to remain absent in the matter, as he does not want to contest it, the only option available to the court would be to dismiss it in default and that appeal cannot be decided on merits in their absence. So he cannot be disallowed from withdrawing the appeal and that it shall not affect any right of the applicant, who in any case is free to approach any forum if he feels so aggrieved.
9. Further, plea of counsel for respondents was that when the parties do not want to contest the case, and therefore, cannot be compelled to do so. Moreover it was a family dispute which has been amicably resolved by the parties. So withdrawal of appeal shall not infringe any right of the applicant.
10. In view of the above discussion, this court has come to the conclusion that by mere filing of an application by an applicant for impleadment in a case cannot be the basis for denying the right of an appellant to withdraw his case. Thus the application of the applicant for impleadment as party is hereby rejected/ dismissed and the application of appellants to withdraw the present appeal is allowed. The present appeal is dismissed as withdrawn. A copy of this order be forwarded to Regional Director Survey and Land Records (Ex-Officio Settlement Officer), Jammu for information.
11. Stay issued, if any, shall stand vacated. The case file be consigned to records after due completion.


(Dr. M.K. Bhandari)IAS
Divisional Commissioner,
Jammu

Announced
22.12.2017