IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No. 349 of 2022

Reserved on 25.06.2026

Date of decision: 02.07.2026.

Dila Ram Verma ...Petitioner.

Versus

Mangat Ram (deceased) through LRs. ...Respondents.

Coram:

The Hon'ble Mr. Justice Romesh Verma, Judge.

Whether approved for reporting?[1]

For the petitioner : Petitioner in person with Ms. Shikha Rajta, legal aid counsel.

For the respondents : Mr. Janesh Gupta, Advocate, for respondents No. 1 (a) to 1 (c).

Romesh Verma, Judge (Oral):

The instant petition arises out of the impugned order as passed by the learned Senior Civil Judge, Court No.1, Shimla, H.P. dated 16.01.2020, whereby an application filed by the petitioner under the Mediation Rule 25, 2005 read with Section 151 CPC has been ordered to be dismissed.

2. The facts as emerge in the present case are that the present petitioner filed a suit for permanent prohibitory injunction against the defendant restraining him from raising construction, digging and excavation of soil in the land situated in Khasra No. 772/45/1 & 784/451, Kufta-Dhar-Bharari,

[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

Tehsil and District Shimla without constructing proper retaining wall with further prayer for grant of mandatory injunction against the defendant seeking direction to reconstruct the retaining wall belonging to the plaintiff which collapsed due to the negligence of the defendant and in the alternative for recovery of loss of Rs. 50,000/- on account of damages.

3. As per plaintiff he is in possession of land situated in Khasra No. 784/451 measuring 0.5 bighas, situated at Kufta Dhar, Tehsil and District Shimla. The plaintiff started construction over the land and prior to raising of construction the plaintiff very cautiously, and carefully constructed a retaining wall on the front side of his land so as to ensure proper protection from any landslide. The plaintiff had constructed a retaining wall 4.15 meters high and 10.9. meters long on the valley side and got a space of 8.11 meters at the left side of 11.2 meters at the right side of his plot. It is the case of plaintiff that the defendant is owner in possession of land situated in Khasra No. 772/451 at Kufta-Dhar, Tehsil and District Shimla and the same is situated just below land owned by the plaintiff. It was alleged that the defendant while carrying out construction over his own piece of land which is situated in the lower side, started digging work and excavation

of soil negligently and in a reckless manner. On account of negligence of the defendant in carrying out digging and excavation, the entire retaining wall of the plaintiff collapsed due to landslide. The defendant is still intending to continue with the excavation of soil and digging work on the land, situated in khasra No. 784.451/1 without constructing any breast wall which may cause further threat/danger to the plaintiff. Therefore, the suit was filed by the plaintiff against the defendant for seeking relief of permanent prohibitory injunction by restraining the defendant from digging and excavation of soil over the suit land. Further, it was prayed that a decree for mandatory injunction by directing him to construct the retaining wall be passed in his favour and it was further prayed that decree for recovery of Rs. 50,000/- along with interest in favour of the plaintiff on account of damage and expenses incurred be passed in his favour.

4. The suit, as preferred by the petitioner/plaintiff was contested by the defendant by raising various preliminary objections such as maintainability, Section-10 of CPC, estoppel and valuation etc. On merits, all the averments as made in the plaint were refuted and denied. It was stated that the defendant is owner of the land comprised in khasra No. 772/451/1 and not of khasra No. 772/451 as has been claimed

in the plaint. It was stated that retaining wall was constructed by the plaintiff in a very negligent and carelessness manner without adopting proper guidelines required for construction of retaining wall. The entire retaining wall was made of loose stones without using any cement. It was stated that in between the portion of the retaining wall and the pillars raised for the construction of his building, plaintiff had filled in the said gap with all the debris which he had dug out for raising pillars. It was specifically denied that the defendant while raising the construction had excavated the land and did the digging work negligently. The allegations of negligence and carelessness were specifically denied. The defendant prayed for dismissal of the suit as preferred by the plaintiff.

5. During the pendency of the suit, the learned Senior Civil Judge, Court No.1, Shimla vide its order dated 25.07.2018, referred the matter to the mediation of Sh. Niranjan Verma, Advocate. The learned Mediator made an effort to settle the matter between the parties and on account of co-operation of learned counsel, the mediation was successful and vide report dated 30.07.2018, it was observed by the learned Mediator that both the parties have signed the agreement and appended their signatures on the agreement after going through the same. It has been observed that on the

basis of the agreement and statement of the parties, which was signed and attested by the learned Mediator, the plaintiff is ready to settle his claim, if the defendant pays to him Rs. 20,000/- only. It was also observed in the proceedings that matter was taken up on 30.07.2018 and the defendant had paid a sum of Rs. 20,000/- to the plaintiff, who has received the same as full and final settlement of his claim and to that effect his statement was recorded and signed after going through the same. The learned mediator in his report has observed as follow:-

> *"I have been appointed as mediator by the civil judge court no. 1 shimla in the matter Sh. Dila Ram Vs Sh. Mangat Ram. Parties were directed to appear before the mediator in the mediation center chakkar shimla-5 on 25.07.2018 at 3 P.M. Both the parties are present. The mediation is tried and conducted between the parties. Parties have agreed to settle their dispute amicably, their statements are recorded as per their version. An agreement was also prepared as per their version. Both the parties have signed the agreement and put their signature on the agreement after going through the agreement. The agreement and statements of the parties were signed and attested by me.*
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> *As per the statement of plaintiff he is ready to settle his claim if the defendant pays him rupees twenty thousand only. The defendant also agrees to pay rupees twenty thousand to the plaintiff and seek time to pay the same by 30.07.2018.*
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> *The matter is adjourned to 30.07.2018. The matter is again taken up on 30.07.2018 the defendant paid rupees twenty thousand to the plaintiff who received the same as full*

and final settlement of his claim, to this effect his statement was recorded and he signed the same after going through it.

The mediation is succeeded. The mediation report is submitted before the Ld. Court along with agreement and statements of the parties for kind perusal. Parties are asked to appear before Ld. court on 10.08.2018 date already fixed".

6. Thereafter, the case was fixed by the learned Mediator on 10.08.2018 for further orders before the learned Senior Civil Judge, Court No.1, Shimla. On the said date, the learned trial Court ordered that the plaintiff was present in person before the Court and had submitted that there is a dispute with respect to construction of retaining wall as such matter be again listed before the mediator for compromise. On the other hand it was pointed by the defendant that they are not ready for compromise as the plaintiff has already taken a sum of Rs. 20,000/- from them. It has been observed by the learned trial Court that efforts were made for sending the matter again for mediation but the defendant refused.

7. Thereafter, the plaintiff filed an application under the Mediation Rules 25 read with Section 151 CPC with a prayer that the compromise which was effected between the parties, disposes only issue of payment and compensation for the loss to the plaintiff and not the issue with respect to reconstruction of the wall in question, which had collapsed.

Therefore, the issue of reconstruction of wall, which had collapsed was not resolved during the mediation, be taken into consideration for adjudication, in view the provisions of Mediation Rules 25 (3) and 3 (i). It was stated in the application that the issue of repair/reconstruction is severable from the other issues arising in the suit. Therefore, on the said issue, the suit is liable to be proceeded further and proceedings on this issue as per Mediation Rule 25 be taken up.

8. The said application was duly contested by the defendant/respondent by raising plea of maintainability. It was averred in the reply that the application as filed by the plaintiff is neither competent nor maintainable in the eyes of law, therefore, the same deserves to be dismissed. It was stated in the reply that the instant application has been filed by abusing the due process of law and the same deserves to be dismissed as no case as mentioned in Rule 25 of the Mediation Rules is made out. On merits, it has been stated that no relief can be granted to the plaintiff my means of instant application as he himself has entered into a compromise and he was well aware about the actual as well as factual position and the conduct of the plaintiff establishes the fact that he has accepted the compromise in letter and spirit, especially when he received Rs. 20,000/- under compromise without any objection of any kind.

It has been stated that as a matter of fact, the applicant has raised his constructions right over the retaining wall which is not permissible in law and now by virtue of the present application, he intends to legalize his illegal acts and also puts the orders of the learned Court to jeopardize the interest of the defendant. It has been stated that on the one hand the applicant is admitting entering into compromise and having received the compensation, however, on the other hand, the interpretation as being given by the plaintiff is impermissible. It was stated that the compromise was entered between the parties in its entirety and the averments as made in the application are false, illegal and incorrect.

9. The learned trial Court vide impugned order dated 16.01.2020 dismissed the application as filed by the plaintiff.

10. Feeling dissatisfied by the impugned order, the petitioner filed appeal under Section 96 of CPC in the Court of learned Additional District Judge-cum-Special Judge, CBI, Shimla. However, the same stood withdrawn by the petitioner on 21.6.2022, without seeking any liberty from the learned Appellate Court.

11. The petitioner/plaintiff feeling dissatisfied by the order as passed by the learned Senior Civil Judge, Court No.1,

Shimla dated 16.01.2020 has invoked the provisions of Article 227 of the Constitution of India.

12. It is contended by the learned counsel for the petitioner that the impugned order as passed by the learned trial Court is erroneous and liable to be quashed and set aside. She submits that though the compromise was effected inter-se the parties with respect to the payment of damages and construction of retaining wall and since the defendant had paid Rs. 20,000/- as damages, therefore, issue of construction of retaining wall is still to be adjudicated in accordance with law. She would submit that the approach as adopted by the learned trial Court is not inconformity with the provisions of law. Therefore, after accepting the present petition, the application as filed by the plaintiff under Rule 25, 2005 of Mediation Rules read with Section 151 CPC deserves to be allowed.

13. On the other hand, the learned counsel for the respondents has defended the impugned order. He submits that the petitioner is abusing the process of law and after obtaining a sum of Rs. 20,000/-, which was agreed between the parties and in lieu of that the plaintiff was supposed to withdraw the suit is resiling from the compromise which was duly entered and signed by the respective parties. It is contended that the learned mediator tried his level best to

compromise the matter and while understanding the contents of agreement, he appended his signatures not only once but thrice. Therefore, it cannot be termed that the agreement as entered between the parties has not been fully implemented.

14. I have heard learned counsel for the parties and gone through the case file.

15. The petitioner/plaintiff instituted a suit for permanent prohibitory injunction against the defendant in the Court of learned Senior Civil Judge, Court No.1 Shimla. It is the case of the petitioner that he is owner in possession of land bearing khasra No. 784/451, measuring 0-5 bighas situated at Dufta-Dhar, Tehsil and District Shima. The plaintiff states that he had constructed a retaining wall 4.15 meters high and 10.09 long and got a space of 8.11 meters at the left side, 11.2 meters at the right side of his plot. It is claimed by the plaintiff that the defendant who is owner in possession of adjoining plot, while carrying out construction over his land, situated in the lower side, started digging work and excavation soil negligently and in a reckless manner, as a result of which, the retaining wall of the plaintiff along with cemented septic tank collapsed due to the landslide. Therefore, it has been prayed in the plaint that decree for permanent prohibitory injunction and mandatory injunction be passed in favour of the plaintiff and

against the defendant. Further recovery of Rs. 50,000/- along with interest has also been sought from the learned trial Court. The averments as made in the plaint have been specifically refuted and denied by the defendant. The claim of the plaintiff that the defendant started reckless excavation and construction activities as a result of which the retaining wall and septic tank of the plaintiff got demolished was specifically denied. During the pendency of the suit, the learned trial Court referred the matter for mediation to Sh. Niranjan Verma, Advocate. With the efforts of learned Mediator, the matter stood compromised. The present petitioner on 25.07.2018 before the learned Mediator made a statement that the parties have entered into a compromise. As per the terms and conditions of the compromise, the plaintiff shall withdraw the suit as filed by him. As per statement, the defendant had agreed that he shall pay a sum of Rs. 20,000/- on or before 30.07.2018 and both the parties do not want to continue with the instant proceedings. It has been stated in the said statement that the compromise was effected with the consent of the parties and the said compromise was read over and shown to both the parties and after understanding its contents, it was duly signed by the plaintiff, defendant and the learned Mediator.

16. Statement of plaintiff Sh. Dila Ram was separately recorded on 25.07.2018, whereby he has categorically stated that the parties have entered into a compromise and the defendant has agreed to pay a sum of Rs. 20,000/- as damages to the plaintiff. He stated that he is ready to withdraw the instant suit in lieu of the amount to be paid by the defendant. He stated that the defendant will pay the said amount to him on or before 30.07.2018 and after receipt the said amount, he shall withdraw the suit. He has further stated that the aforesaid statement has been made without any pressure and the same is being made out of his own free will.

17. On the same date i.e. 25.07.2018, defendant Mangat Ram also made a statement before the learned Mediator that he has compromised the matter with the plaintiff and he is ready to give Rs. 20,000/- to the plaintiff. He stated that he shall make the payment to the plaintiff on or before 30.07.2018. He stated that he is making the statement out of his own free will and without any pressure. Thereafter, on 30.07.2018, petitioner made a statement duly signed by him before the learned Mediator, whereby he acknowledged the receipt of Rs. 20,000/- from the defendant. He further stated that since he has received Rs. 20,000/- from the defendant, therefore, he does not want to continue with the civil suit, which has been

filed by him against the defendant as the matter stands compromised between the parties.

18. Thereafter, when the case was listed before the learned trial Court for passing of appropriate orders, the plaintiff appeared before the learned trial Court in person on 10.08.2018. He stated that there is a dispute with respect to construction of retaining wall as such, the matter be again listed for compromise. He acknowledged that the defendant has paid a sum of Rs. 20,000/- to him. The learned trial Court on 10.08.2018 observed that efforts were made for sending the matter again for mediation but the defendant refused as such the matter cannot be referred for mediation and the case was listed for the evidence of the plaintiff on 04.09.2018.

19. Thereafter, the petitioner filed an application under Mediation Rule 25, 2005 read with Section 151 CPC. During the pendency of the said application, again with the able assistance of the learned counsel for the parties, the parties tried to compromise the matter and vide its order dated 24.12.2019, it was observed by the learned trial Court that with the assistance of learned counsel for the parties, the parties have reached a compromise whereby defendant No. 1 (a) had agreed to allow the plaintiff to construct the wall next to water tank up to the height of chhajja/lintel provided the width of the

walls remain the same and wall does not extend beyond the lintel. As per the order, the plaintiff also agreed to take back all the objections raised against the mediation report as well as to withdraw the suit in case he is allowed to do the same.

20. The learned trial Court appointed Ms. Anjana as Local Commissioner to visit the spot on 30.12.2019 and ensure the construction of wall as per the agreement of the parties. The fee of the Local Commissioner was fixed Rs. 3000/- to be paid by the plaintiff on spot. Thereafter, the Local Commissioner Ms. Anjana visited the spot and submitted her report dated 02.01.2020. As per report of the Local Commissioner, she submitted that the parties were duly present and in the presence of the parties, the spot was duly identified. The plaintiff feigned his ignorance with respect to the raw material and labour not being present at the spot. On making inquiries with the plaintiff, he did not give any satisfactory answers and in turn started misbehaving and picked up quarrel with the Local Commissioner as well as with the opposite party. It has been observed in the report of the Local Commissioner dated 02.01.2020 that the behavior of the plaintiff on the spot was aggressive and he did not answer the query of Local Commissioner with respect to non availability of the labour and raw material on the sport. It has been further observed that

the plaintiff did not pay the legal fee of the Local Commissioner which was fixed at Rs. 3000/-.

21. This Court also tried to resolve the issue inter-se the parties and requested the learned counsel for the parties to explore the possibility for the amicable settlement. On 24.06.2026, both the learned counsel for the parties on the instructions of their clients agreed that in case the similar order which was passed by the learned trial Court dated 24.12.2019 is passed, in that event, the issue in hand can be resolved. Though, this Court had dictated the order for appointment of the Local Commissioner and fee of the Local Commissioner was also assessed by this Court. After passing of the order in post lunch session, learned counsel for the petitioner made a request that her client has refused to pay the amount of fee to the Local Commissioner. Therefore, the matter be heard on merits. Thereafter, the case was heard on 25.06.2026. The petitioner has tried to abuse the process of law by resiling from the compromise which was entered between the parties before the learned Mediator, appointed by the learned trial Court. It has come on record that the learned Mediator made his best efforts to settle the dispute and before him, statement was made by the petitioner and he appended his signatures not once but thrice. The petitioner appended his signatures on the

compromise on 25.07.2018, separate statement on the same date was duly signed by him and thereafter on 30.07.2018 again, the petitioner appended his signatures by acknowledging that he had received a sum of Rs. 20,000/- in lieu of compromise. Therefore, he does not want to continue with the present suit. After obtaining the amount of Rs. 20,000/- the petitioner has come up with new story that there was two issues to be adjudicated by the learned Mediator. The first issue was with respect to the payment of Rs. 20,000/- and the second issue was with respect to construction of the retaining wall.

22. In case the report of learned Mediator and the statements, as signed by the parties are seen, the only compromise which was effected between the parties was with respect to the fact that the defendant shall pay a sum Rs. 20,000/- to the plaintiff as damages and thereafter, the plaintiff shall withdraw the suit. However, after receiving the amount of Rs. 20,000/- an application came to be filed by the plaintiff under Mediation Rules 25, 2005 read with Section 151 CPC. The parties entered into a compromise fully knowing the contents of the same. It has come on record that the parties were well aware about the stipulation as contained in the agreement which was entered inter-se the parties and the

contents of the same were read over and explained to both the parties and it is only thereafter that both the parties have appended their signatures on the same. The petitioner cannot be permitted to approbate and reprobate as he has done in the present case. After receiving Rs. 20,000/-, the plaintiff cannot be permitted to re-opon the issue again. Once he has chosen to compromise the matter before the learned Mediator after duly appending his signatures, he cannot be permitted to say that the issue of construction of retaining wall still subsists. The petitioner has categorically admitted to withdraw the suit after receiving a sum of Rs. 20,000/- . However, instead of withdrawing the suit, he filed the instant application, which is totally an abuse of process of law.

23. The Hon'ble Apex Court in ***Criminal Appeal No. 1924 of 2026***, titled as ***Dhananjay Rathi*** vs. ***Ruchika Rathi*** decided on 13.04.2026, has held that the agreement reached during mediation is binding on both the parties unless procured by fraud, force or undue influence. It has been held that resiling from settlement without valid reasons entail consequences including costs and quashing of subsequent proceedings. The Apex Court has held as follows:-

> *"30. It is trite law that once the parties have entered into a settlement agreement which was duly authenticated by the mediator, in case of any resilement from such terms as agreed*

upon in the settlement, the resiling party must be encumbered with heavy costs. Any deviation from the terms of the settlement arrived in mediation and later confirmed by the Court should be dealt with strictly as such deviation harbors an attack to the foundational basis of the entire process of mediation. This Court in the case of ***Gimpex Private Limited v. Manoj Goel,*** *reported as (2022) 11 SCC 705, while dealing with a compromise entered between the parties in case of cheque dishonour, held that the parties cannot be allowed to reverse the effect of a settlement agreement by pursuing either original or subsequent complaints. A three-Judge Bench of this Court therein emphasized that a settlement once entered and authenticated by a mediator subsumed the original complaint. The relevant portion of the said judgment is reproduced herein under:*

> *"41. When a complainant party enters into a compromise agreement with the accused, it may be for a multitude of reasons — higher compensation, faster recovery of money, uncertainty of trial and strength of the complaint, among others. A complainant enters into a settlement with open eyes and undertakes the risk of the accused failing to honour the cheques issued pursuant to the settlement, based on certain benefits that the settlement agreement postulates. Once parties have voluntarily entered into such an agreement and agree to abide by the consequences of non-compliance of the settlement agreement, they cannot be allowed to reverse the effects of the agreement by pursuing both the original complaint and the subsequent complaint arising from such non-compliance. The settlement agreement subsumes the original complaint. Noncompliance of the terms of the settlement agreement or dishonour of cheques issued subsequent to it, would then give rise to a fresh cause of action attracting liability under Section 138 of the NI Act and other remedies under civil law and criminal law".*

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C.2. Liability arising from the settlement agreement

49. Once a settlement agreement has been entered into between the parties, the parties are bound by the terms of the agreement and any violation of the same may result in consequential action in civil and criminal law."

(Emphasis Supplied)"

31. The exception to the above rule is that a party can resile from the Settlement Agreement arrived in the mediation proceedings is, if it successfully demonstrates that the said Settlement Agreement was procured by force, fraud or undue influence. The party can also resile from the Settlement Agreement on account of non-fulfillment of any of the conditions by the opposite party as set out in the Settlement Agreement.

32. The Respondent-Wife alleged that the Appellant Husband assured the Respondent-Wife that apart from the considerations specified in the Settlement Agreement, the Appellant-Husband would give ₹ 120 Crores worth of jewellery along with gold biscuits worth ₹ 50 Crores in lieu of the stridhan (apart from those mentioned in the Settlement Agreement) to her before signing of the Second Motion Petition. However, since the Appellant-Husband did not adhere to his promise, the Respondent-Wife did not sign the Second Motion Petition.

33. Another argument raised by the Respondent-Wife, that she only agreed to exclude these terms from the Settlement Agreement upon being asked so by the Appellant-Husband in order to avoid alerting the Income Tax Department and to evade any liability towards wealth tax, is highly egregious. We are appalled at the sheer audacity of such a submission being advanced before a court of law and deplore the evident disregard exhibited towards the legal system.

34. We are not impressed by the reasons given by the learned counsel of the Respondent-Wife for resiling out of the Settlement Agreement. It is difficult to comprehend as to why in the

Settlement Agreement the condition for return of jewelleries and gold biscuits have not been mentioned. It is an admitted position that the Respondent-Wife had signed the Settlement Agreement and we are not sure as to why she, being a mature and educated woman assisted by her advocate, did not press for the inclusion of these conditions in the Settlement Agreement.

35. In addition, we find no plausible explanation as to why the Respondent-Wife waited for eight long months from the date of the Second Motion Petition before initiating the DV proceedings. It is evident from the WhatsApp chats dated 17.02.2025 between them, wherein the Respondent-Wife listed all articles she sought to be returned, that were not a part of the Settlement Agreement, that the said list did not make any mention whatsoever of any jewellery worth ₹ 120 crores or gold biscuits worth ₹ 50 crores, which she claims ₹ were assured to her by the Appellant-Husband. Notably, these allegations were raised for the first time only in the DV complaint. This prolonged delay in raising such a substantial ground raises serious suspicion as to the credibility and authenticity of the allegations made therein in blatant disregard of the terms of the Settlement Agreement. In addition to this, with regard to the email sent by the counsel for the Appellant-Husband dated 21.02.2025, wherein it was mentioned that the Appellant-Husband would make good all other obligations, apart from those mentioned in the Settlement Agreement, it must have been in pursuance of the list of items sent by the Respondent-Wife through the WhatsApp chat dated 17.02.2025 and it cannot be construed in such a manner that it would have included the demands for jewellery worth ₹120 Crores or gold biscuits worth ₹50 Crores.

36. Reliance was placed upon by the learned counsel for the Respondent-Wife on certain judgments, however, all the said cases would not apply in the present case for the following reasons:

A. Smt Sureshta Devi v. Om Prakash*, reported as (1991) 2 SCC 25: The Respondent-Wife relied on the said judgment to the effect that the consent of the parties must subsist not only at the stage of filing of the petition but also, is required to continue to exist till the passing of the final decree. However, in the present case, regarding the withdrawal of consent before the Second Motion, the Respondent-Wife could not prove any fraud, force, or undue influence and her withdrawal of consent is merely on the ground of non adherence to the promise made by the Appellant-Husband which was not even the part of the Settlement Agreement and thus, cannot benefit her to initiate another proceeding.*

B. Hitesh Bhatnagar v. Deepa Bhatnagar*, reported as (2011) 5 SCC 234: The Respondent relied on the said judgment to the effect that one of the parties could withdraw his/her consent at any time before passing of the decree. In the said case, the agreement was entered into between the parties independently, however, in the present case the settlement was arrived upon mediation between the parties on specific order of the Court and which was also later ratified by the Court.*

C. Smruti Pahariya v. Sanjay Pahariya*, reported as (2009) 12 SCC 338: The said judgment of the Court was given after following the reasoning given in the case of Surestha Devi (supra) which has been already distinguished above. Proceedings under the DV Act."*

24. This Court in ***CMPMO No. 75 of 2014***, titled as, ***Jiwan Lal Sharma*** vs. ***Kashmir Singh Thakur***, decided on 06.09.2014, has held as follows:-

"5. According to Rule 17 of the Rules, the parties must understand that the Mediator only facilitates in arriving at a decision to resolve disputes and that he would not and cannot impose any settlement nor does the Mediator give any

warranty that the mediation will result in a settlement. The Mediator cannot impose any decision upon the parties. In the instant case, the parties have arrived at a settlement on 4.1.2011. They have signed the statements. The report, as noticed hereinabove, was furnished to the trial Court by the Mediator on 12.1.2011. According to Rule 24, where an agreement is reached between the parties in regard to all the issues in the suit or some of the issues, the same is to be reduced in writing and signed by the parties or their power of attorney and if any counsel have represented the parties, they are required to attest the signature of their respective clients. The agreement of the parties duly signed and attested is to be submitted to the Mediator who shall, with a covering letter signed by him, forward the same to the Court where the suit is pending. The trial Court, as per sub rule (1) of Rule 25, within 7 days of the receipt of any settlement, is required to issue notice to the parties fixing a date for recording the settlement and such date should not be beyond a further period of 14 days from the receipt of the settlement. Thereafter, as per sub rule (2) of Rule 25, the Court is required to pass a decree in accordance with the settlement so recorded if the settlement disposes of all the issues in the suit. The trial Court has not followed Rule 25 of the Rules. There is no provision for filing the objections against the settlement which is arrived at between the parties duly signed by them. The only requirement after the receipt of the settlement is that the Court, which is seized of the matter, shall issue notice to the parties fixing date for recording the settlement. The defendant has not raised any objection at the time of settlement dated 11.1.2011. The trial Court immediately after the completion of the formalities required under Rule 24, was to take necessary steps as provided under Rule 25, by giving notice and hearing the parties to effect compromise and pass a decree in accordance with the terms of settlement accepted by the parties.

6. Their lordships' of the Hon'ble Supreme Court in the case of Salem Advocate Bar Association, T.N. vrs. Union of

India, reported in (2005) 6 SCC 344, have held that Section 89(2)(d) only means that when mediation succeeds and parties agree to the terms of settlement, the Mediator will report to the Court and the Court, after giving notice and hearing to the parties, "effect" the compromise and pass a decree in accordance with the terms of settlement accepted by the parties. Their lordships' have further held that when the parties come to a settlement upon a reference made by the Court for mediation and the parties want the same, there has to be some public record of the manner in which the suit is disposed of and, therefore, the Court must first record the settlement and pass a decree in terms thereof and, if necessary, proceed to execute it in accordance with law. If the parties do not want the Court to record a settlement and pass a decree, there will be no public record of the settlement. Their lordships' have held as follows:

> *"57 A doubt has been expressed in relation to clause (d) of Section 89(2) of the Code on the question as to finaliasation of the terms of the compromise. The question is whether the terms of compromise are to be finalized by or before the mediator or by or before the court. It is evident that all the four alternatives, namely, arbitration, conciliation, judicial settlement including settlement through the Lok Adalat and mediation are meant to be the action of persons or institutions outside the court and not before the court. Order 10 Rule 1-C speaks of the "Conciliation Forum" referring back the dispute to the court. In fact, the court is not involved in the actual mediation/conciliation. Clause (d) of Section 89(2) only means that when mediation succeeds and parties agree to the terms of settlement, the mediator will report to the Court and the Court, after giving notice and hearing to the parties, "effect" the compromise and pass a decree in accordance with the terms of settlement accepted by the parties. Further, in this view, there is no question of the court which refers the matter to*

mediation/conciliation being debarred from hearing the matter where settlement is not arrived at. The Judge who makes the reference only considers the limited question as to whether there are reasonable grounds to expect that there will be a settlement, and on that ground he cannot be treated to be disqualified to try the suit afterwards, if no settlement is arrived at between the parties.

62. When the parties come to a settlement upon a reference made by the court for mediation, as suggested by the Committee that there has to be some public record of the manner in which the suit is disposed of and, therefore, the court has to first record the settlement and pass a decree in terms thereof and if necessary proceed to execute it in accordance with law. It cannot be accepted that such a procedure would be unnecessary. If the settlement is not filed in the court for the purpose of passing of a decree, there will be no public record of the settlement. It is, however, a different matter if the parties do not want the court to record a settlement and pass a decree and feel that the settlement can be implemented even without a decree. In such eventuality, nothing prevents them in informing the court that the suit may be dismissed as a dispute has been settled between the parties outside the court."

25. As per mandate and exposition of law, it has been held by the Hon'ble Apex Court that settlement arrived in mediation proceedings if it successfully demonstrate that the said agreement was procured by force fraud or undue influence only in that event the parties can resile from the same. Further, the Hon'ble Apex Court has held that the parties can also resile from the agreement on account of non fulfillment of any of the

condition by the opposite parties as settled in the compromise. In the present case, both the conditions are missing. It is not the case of the petitioner that the defendant has resiled from the payment of Rs. 20,000/- as agreed by him in the settlement. Further, it is not the case of the petitioner that the settlement as arrived between the parties was the result of force, fraud or undue influence. Therefore under such circumstances, the petitioner cannot be permitted to resile from the settlement as arrived between the parties. Therefore, the learned trial Court after considering the record placed on record has rightly dismissed the application filed by the petitioner. The learned Court below has not committed any illegality or jurisdictional error. Therefore, there is no scope for interference in the impugned order.

26. The Hon'ble Apex Court, in its various decisions, has held that the jurisdiction conferred under Article 227 of Constitution by any means is not appellate in nature for correcting errors in the decisions of the subordinate Courts or Tribunals, but is merely a power of superintendence to be used to keep them within the bounds of their authority. It has been held that the supervisory jurisdiction conferred on the High Court under Article 227 of the Constitution of India is limited to seeing that an inferior Court or Tribunal functions within the

limits of its authority and not to correct errors apparent on the face of the record, much less errors of law.

27. The power under Article 227 is limited to see that the Courts below function within the limits of their authority or jurisdiction. The High Court cannot interfere with the findings of fact recorded by the subordinate Court or Tribunal while exercising its jurisdiction under Article 227. The Hon'ble Apex Court has held that, over the last 50 years, it has consistently been observed that the limited jurisdiction of the High Court under Article 227 cannot be exercised by interfering with findings of fact or by setting aside the judgments of the courts below on merits.

28. Hon' ble Apex Court in ***Civil Appeal No. 2226 of 2010***, titled ***State of Haryana & others*** vs. ***Manoj Kumar***, decided on 09.03.2010 has held as follow:-

> *"23. More than half a century ago, the Constitution Bench of this court in Nagendra Nath Bora and Another v. Commissioner of Hills Division and Appeals, Assam & Others AIR 1958 SC 398 settled that power under Article 227 is limited to seeing that the courts below function within the limit of its authority or jurisdiction.*
>
> *24. This court placed reliance on Nagendra Nath's case in a subsequent judgment in Nibaran Chandra Bag v. Mahendra Nath Ghughu AIR 1963 SC 1895. The court observed that jurisdiction conferred under Article 227 is not by any means appellate in its nature for correcting errors in the decisions of subordinate courts or tribunals but is merely a power of*

superintendence to be used to keep them within the bounds of their authority.

25. This court had an occasion to examine this aspect of the matter in the case of Mohd. Yunus v. Mohd. Mustaqim & Others (1983) 4 SCC 566. The court observed as under:-

> *"The supervisory jurisdiction conferred on the High Courts under Article 227 of the Constitution is limited "to seeing that an inferior Court or Tribunal functions within the limits of its authority," and not to correct an error apparent on the face of the record, much less an error of law. for this case there was, in our opinion, no error of law much less an error apparent on the face of the record. There was no failure on the part of the learned Subordinate Judge to exercise jurisdiction nor did he act in disregard of principles of natural justice. Nor was the procedure adopted by him not in consonance with the procedure established by law. In exercising the supervisory power under Article 227, the High Court does not act as an Appellate Court or Tribunal. It will not review or reweigh the evidence upon which the determination of the inferior court or tribunal purports to be based or to correct errors of law in the decision."*

26. This court again clearly reiterated the legal position in Laxmikant Revchand Bhojwani & Another v. Pratapsing Mohansingh Pardeshi (1995) 6 SCC 576. The court again cautioned that the High Court under Article 227 of the Constitution cannot assume unlimited prerogative to correct all species of hardship or wrong decisions. It must be restricted to cases of grave dereliction of duty and flagrant abuse of fundamental principles of law or justice, where grave injustice would be done unless the High Court interferes.

27. A three-Judge Bench of this court in Rena Drego (Mrs.) v. Lalchand Soni & Others (1998) 3 SCC 341 again abundantly made it clear that the High Court cannot interfere with the findings of fact recorded by the subordinate court or the tribunal while exercising its jurisdiction under Article 227. Its

function is limited to seeing that the subordinate court or the tribunal functions within the limits of its authority. It cannot correct mere errors of fact by examining the evidence and reappreciating it.

28. In Virendra Kashinath Ravat & Another v. Vinayak N. Joshi & Others (1999) 1 SCC 47 this court held that the limited power under Article 227 cannot be invoked except for ensuring that the subordinate courts function within its limits.

29. This court over 50 years has been consistently observing that limited jurisdiction of the High Court under Article 227 cannot be exercised by interfering with the findings of fact and set aside the judgments of the courts below on merit."

29. To the similar extent, the Apex Court in ***Civil Appeal No. 3072 of 2022***, titled as ***Ibrat Faizan*** vs. ***Omaxe Buildhome Private Limited***, decided on 13.05.2022 has held as follows:-

"14. In view of the above, in the present case, the High Court has not committed any error in entertaining the writ petition under Article 227 of the Constitution of India against the order passed by the National Commission which has been passed in an appeal under Section 58 (1) (a) (iii) of the 2019 Act. We are in complete agreement with the view taken by the High Court. However, at the same time, it goes without saying that while exercising the powers under Article 227 of the Constitution of India, the High Court subjects itself to the rigour of Article 227 of the Constitution and the High Court has to exercise the jurisdiction under Article 227 within the parameters within which such jurisdiction is required to be exercised.

14.1 The scope and ambit of jurisdiction of Article 227 of the Constitution has been explained by this Court in the case of Estralla Rubber v. Dass Estate (P) Ltd., (2001) 8 SCC 97, which has been consistently followed by this Court (see the recent decision of this Court in the case of Garment Craft v. Prakash

Chand Goel, 2022 SCC Online SC 29). Therefore, while exercising the powers under Article 227 of the Constitution, the High Court has to act within the parameters to exercise the powers under Article 227 of the Constitution. It goes without saying that even while considering the grant of interim stay/relief in a writ petition under Article 227 of the Constitution of India, the High Court has to bear in mind the limited jurisdiction of superintendence under Article 227 of the Constitution. Therefore, while granting any interim stay/relief in a writ petition under Article 227 of the Constitution against an order passed by the National Commission, the same shall always be subject to the rigor of the powers to be exercised under Article 227 of the Constitution of India."

30. The learned trial Court has rightly determined the points in controversy after taking into consideration the material placed on record. Therefore, there is no error or infirmity in the impugned order.

31. Consequently, the present petition, being devoid of any merit, deserves to be dismissed. Pending miscellaneous application(s), if any, shall also stand disposed of.

(Romesh Verma)
Judge

2nd July, 2026. (kck)