

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD) No.2724 of 2016

M/s Maxworth Home Limited
rep. By its Senior Manager
No.50, Maxworth Nagar,
Sunnambukolathur
Chennai 600 117.

... Petitioner

..VS..

1. Mrs.Bina Neyabalan
rep. By her Power Agent
S.Jeyabalan

2. S.Jeyabalan

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the Judgment and decree of the learned Principal District Judge, Kancheepuram District at Chengalpattu dated 31.03.2016 made in O.S.No.60 of 2011.

For Petitioner : Mr.R.Bharath Kumar
Mr.T.Jayaramaraj, GA for State

ORDER

Challenging the Judgment and decree dated 31.03.2016 passed in O.S.No.60 of 2011 on the file of the Principal District Court, Chengalpattu, refusing to refund the Court fee paid on the plaint, the plaintiff has filed the above Civil Revision Petition.

2. The plaintiff filed the suit in O.S.No.60 of 2011 for specific performance and for permanent injunction. During the pendency of the suit, the plaintiff and defendants entered into a settlement and a compromise memo was filed before the trial Court. Pursuant to the joint memorandum of compromise filed before the trial Court, the trial Court dismissed the suit as settled out of Court. However, in clause 2 of the decree, the trial Court declined to order refund of Court fee.

3. Mr.R.Bharath Kumar, learned counsel appearing for the petitioner submitted that since the parties have settled the matter out of Court and a decree was passed as settled out of Court, the plaintiff is entitled to get refund of Court fee. In this regard, he has relied upon the Judgment of this Court reported in 2015 (2) TLNJ Civil 63, (N.J.Senthil Kumar vs.N.B.Subash), wherein, in paragraph No.10, has held as follows:-

“10. In the result, the second appeal is dismissed as settled out of Court. The appellant/plaintiff is at liberty to make appropriate application before the first appellate Court for refund of Rs.9,62,998/- lying in the credit of the said Court which was deposited by the defendant as per the direction of the first appellate Court. If any such application is made by the appellant/plaintiff, the first appellate

Court shall refund the said amount to him without there being any need to issue notice to the respondent/defendant. The Registry is directed to refund the entire Court fee paid in this Second Appeal to the appellant herein. Consequently, connected MP is closed”.

4. Mr.Jayaramaraj, learned Government Advocate, who took notice for the State also submitted that the plaintiff is entitled to refund of the Court fee in view of the Judgment of this Court referred to above.

5. In view of the submissions made by the learned counsel on either side, following the ration laid down in the Judgment reported in 2015 (2) TLNJ Civil 63, I modify the Judgment and decree by directing the trial Court to refund the Court fee paid by the plaintiff, since the suit was dismissed as settled out of Court. Accordingly, the plaintiff is entitled to get refund of the Court fee from the trial Court. The plaintiff is directed to file an application before the trial Court for refund of Court Fee. With these observations, the Civil Revision Petition is allowed. No costs.

24.10.2016

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To

The Principal District Judge, Kancheepuram District at Chengalpattu

M. DURAISWAMY,J.,

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