



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.08.2019

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P(MD)No.1316 of 2019

V.Lakshmanan

... Petitioner

vs.

Arun

...Respondent

Petition filed under Article 227 of the Constitution of India, to call for the records in O.S.No.172 of 2016 on the file of the Hon'ble V Additional District Judge, Madurai, and set aside the order particularly with regard to rejecting the refund of Court fee and consequently direct the learned V Additional District Judge, Madurai, to refund the entire court fee paid in O.S.No.172 of 2016.

For Petitioner : Mr.A.Mohan
For Respondent : Mr.G.Aravinthan

ORDER

Against the order of the Court below passed in O.S.No.172/2016 dated 22.03.2019, rejecting refund of the court fee, this revision petition is filed by the plaintiff.

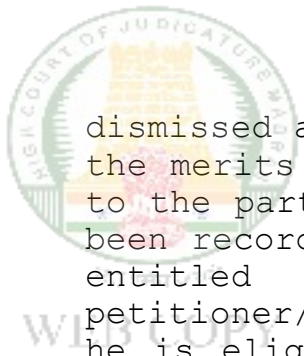
2.The case of the revision petitioner/plaintiff is that he filed the above suit against the respondent/defendant for recovery of money. After framing of issues and examination of PW1, when the suit was posted for framing of additional issues, the plaintiff filed a memo to dismiss the suit as settled out of court and sought the refund of court fees. Though the Court below dismissed the suit based on the memo filed by the plaintiff, it refused to entertain the relief of refund of the court fee in view of Section 69 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955 amended Act 2017, against which, the petitioner/plaintiff has filed this revision petition. In support of the contention, he relied on the following judgments:-

(i)Ranganathan and another vs. In the Court of District Judge, Tiruchirappalli, rep. by its Sheristtar, (2008) 1 MLJ 646.

(ii)N.J.Senthil Kumar vs. N.B.Subash, 2015 (2)TNLJ 63(Civil)

(iii)Venkatachalam vs. Sengoda Gounder, 2014 (6) CTC 216.

3.Perusal of record shows that the learned Judge has dismissed the claim for refund of court fee, stating that whenever any suit is



dismissed as settled out of court before any evidence is recorded on the merits of the claim, full amount of court fee shall be refunded to the parties. In the case on hand, since the evidence of PW1 has been recorded, the learned Judge has held that the plaintiff is not entitled for refund of court fee. In spite of the petitioner/plaintiff producing the judgment in 2015 (2) TNLJ 63 that he is eligible to get full court fees, the learned Judge has held that the High Court exercising its extraordinary judicial power, has granted such relief in the above case and the Court below has got no such power to grant such relief.

4. In my considered opinion, the petitioner is entitled to refund of full court fee in view of the judgment reported in 2015 (2) TNLJ 63. It is worthwhile to extract below the following paragraphs of the above judgment:-

'8. At this juncture, the learned counsel for the appellant would submit that the entire court fee paid may be refunded to him in view of the judgement of this court in Venkatachalam and others v. Sengoda Gounder and others, 2014 (6) CTC 216. In para 7 of the said judgement, this court has held as follows:-

7. In this case, though the matter is not settled through Lok Adalat, parties themselves have come forward for listing the matter before this Court. Even though the matter was not referred before Lok Adalat, the parties settled the matter voluntarily, and it has to be encouraged, otherwise the parties will not come forward to settle the matter and they will get a reference to the Lok Adalat. Thereafter, they will seek full Court-fee. To avoid such situation, the court referred the matter to Lok Adalat under Section 89 of CPC. This court is having ample power to grant full Court-fee in case of settlement between parties, even without any reference to the Lok Adalat. Therefore, this court directs the Registry to refund the full court-fee in this matter.

9. In the instant case also, though the matter has not been referred to the Lok Adalat and settled before the Lok Adalat, since it has been settled out of court between the parties, applying the decision in Venkatachalam's case [cited supra], I am inclined to issue a direction to the Registry to refund the entire court-fee paid in this second appeal to the appellant.

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.''

5. In view of the judgment reported in 2015 (2) TNLJ 63, the impugned order passed in O.S.No.172/2016 dated 22.03.2019, is set aside only to the extent of rejection of the refund of court fee. The Court below is directed to refund the entire court fee paid by the petitioner/plaintiff within a period of two weeks from the date of receipt of a copy of this order.

With the above direction, this Civil Revision Petition is disposed of. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

The Vth Additional District Judge,
Madurai.

Copy to:
The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2 COPIES)

+1 CC to M/s.A.MOHAN, Advocate (SR-81659[F] dated 14/08/2019)

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C.R.P (MD) No.1316 of 2019
14.08.2019

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