

**HIGH COURT OF CHHATTISGARH, BILASPUR**  
**FA No. 4 of 2017**

1. Rahul Bansal S/o Late D.P.Bansal, R/o Plot No.09 And 10 Motilal Nehru Nagar East Bhilai Tahsil And District Durg, Chhattisgarh, Chhattisgarh
2. Rajneesh Bansal S/o D.P.Bansal, R/o Plot No.09 And 10 Motilal Nehru Nagar East Bhilai Tahsil and District Durg, Chhattisgarh
3. Smt. Karuna Bansal W/o D.P.Bansal, R/o Plot No.09 And 10 Motilal Nehru Nagar East Bhilai Tahsil And District Durg, Chhattisgarh
4. Smt. Radhika Jindal W/o Shri Shushil Jindal, R/o Plot No. B Residency Hairarat Apartment Alems Greater Street, Richmandal Town, Bangalore Karnatak
5. Pratibha Agrawal W/o Shri Yash Agrawal, R/o Recreation Ground, Samta Colony, Raipur Tahsil And Distt. Raipur, Chhattisgarh .....Defendant No.01 Late D.P.Bansal Dead 1 To 5 Are Being Legal Representative Of Late D.P.Bansal Dead

**---- Appellants**

**Versus**

1. Smt. Shakuntala Devi W/o Late K.B.Jain, Aged About 64 Years R/o E.W.S. 156 Vaishali Nagar Bhilai Tahsil And District Durg, Chhattisgarh, Chhattisgarh
2. Pradumn Kumar Jain S/o Late K.B.Jain, Aged About 43 Years R/o E.W.S. 156 Vaishali Nagar Bhilai Tahsil And District Durg, Chhattisgarh, District : Durg, Chhattisgarh
3. Manoj Jain S/o Late K.B.Jain, Aged About 39 Years R/o E.W.S. 156 Vaishali Nagar Bhilai Tahsil And District Durg, Chhattisgarh, District : Durg, Chhattisgarh
4. Rahul Kumar Jain S/o Late K.B.Jain, Aged About 35 Years R/o E.W.S. 156 Vaishali Nagar Bhilai Tahsil And District Durg, Chhattisgarh .....Plaintiff No.1 To 4, District : Durg, Chhattisgarh
5. Bhilai Nagar Nigam Bhilai, Through The Estate Officer, Distt. Durg, Chhattisgarh .....Defendant No.2, District : Durg, Chhattisgarh

**--- Respondents**

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|-----------------------------|----------------------------------|
| For Appellant/s             | : Mr. N.K. Malaviya, Advocate    |
| For Respondent No. 1        | : Mr. Goutam Khetrapal, Advocate |
| For Respondents No. 2 to 4: | None                             |
| For Respondent No. 5        | : Mr. Apurv Goyal, Advocate      |

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**D.B.: Hon'ble Shri Justice Manindra Mohan Shrivastava**

**Hon'ble Smt. Justice Vimla Singh Kapoor**

**Order on Board**

**Per Manindra Mohan Shrivastava, J.**

**14/07/2021**

Heard an application for withdrawal of appeal U/O 23 Rule 03 of C.P.C and also prayer for refund of Court fee.

2. Learned counsel for the appellants while pressing his application for withdrawal of this appeal submits that the appeal is being withdrawn pursuant to a amicable settlement of dispute arrived at between the parties outside the Court without getting the matter referred to alternative dispute resolution forum as contemplated under Section 89 of the CPC. He would submit that in such cases also provision relating to refund of Court fee under Section 16 of the Court fee Act, 1870 would apply to entitle the appellants to refund of Court fee. For this purpose he relies upon a recent judicial pronouncement of Supreme Court in **High Court of Judicature At Madras Vs. M.C. Subramaniam and Others** (2021) 3 SCC 560.

3. Learned counsel for the respondents do not dispute the factual position with regard to amicable settlement of dispute between the parties and that being the operative reason for withdrawal of the appeal.

4. In view of the aforesaid admitted factual premise, the judgment of Supreme Court in **High Court of Judicature At Madras Vs. M.C. Subramaniam and Others** (2021) 3 SCC 560 clearly entitles the appellants to refund of Court fees.

5. In the aforesaid decision their Lordships in the Supreme Court have liberally construe the provision relating to refund of Court fee as provided under Section 69-A of Madras Court fee and Suit Valuations Act. It has been held as below:-

“13. The provisions of Section 89 of CPC must be understood in the backdrop of the longstanding proliferation of litigation in the civil courts, which has placed undue burden on the judicial system, forcing speedy justice to become a casualty. As the Law Commission has observed in its 238th Report on Amendment of Section 89 of the Code of Civil Procedure 1908 and Allied Provisions, [Section 89](#) has now made it incumbent on civil courts to strive towards diverting civil disputes towards alternative dispute resolution processes, and encourage their settlement outside of court (Para 2.3). These observations make the object and purpose of [Section 89](#) crystal clear – to facilitate private settlements, and enable lightening of the overcrowded docket of the Indian judiciary. This purpose, being sacrosanct and imperative for the effecting of timely justice in Indian courts, also informs [Section 69A](#) of the 1955 Act, which further encourages settlements by providing for refund of court fee. This overarching and beneficent object and purpose of the two provisions must, therefore, inform this Court’s interpretation thereof.

“14. Before expounding further on our interpretation of the aforesaid provisions, regard must be had to the following postulation of this Court’s interpretive role in [Directorate of Enforcement v. Deepak Mahajan](#), 1994 3 SCC 440

“24...Though the function of the Courts is only to expound the law and not to legislate, nonetheless the legislature cannot be asked to sit to resolve the difficulties in the implementation of its intention and the spirit of the law. In such circumstances, it is the duty of the court to mould or creatively interpret the legislation by liberally interpreting the statute.

25. In Maxwell on Interpretation of Statutes, Tenth Edn. at page 229, the following passage is found:

“Where the language of a statute, in its ordinary meaning and grammatical construction, leads to a manifest contradiction of the apparent purpose of the enactment, or to some inconvenience or absurdity, hardship or injustice, presumably not intended, a construction may be put upon it which modifies the meaning of the words, and even the structure of the sentence. ... Where the main object and intention of a statute are clear, it must not be reduced to a nullity by the draftsman’s unskillfulness

or ignorance of the law, except in a case of necessity, or the absolute intractability of the language used.” (emphasis supplied)

“15. Therefore, it is wellsettled that the Courts may, in order to avoid any difficulty or injustice resulting from inadvertent ambiguity in the language of a statute, mould the interpretation of the same so as to achieve the true purpose of the enactment. This may include expanding the scope of the relevant provisions to cover situations which are not strictly encapsulated in the language used therein.

“16. This principle of statutory interpretation has been affirmed more recently in the decision in [Shailesh Dhairyawan v. Mohan Balkrishna Lulla](#), (2016) 3 SCC 619.

“33....Though the literal rule of interpretation, till some time ago, was treated as the “golden rule”, it is now the doctrine of purposive interpretation which is predominant, particularly in those cases where literal interpretation may not serve the purpose or may lead to absurdity. If it brings about an end which is at variance with the purpose of statute, that cannot be countenanced.” (emphasis supplied)

This was followed in the subsequent decision of this Court in [Anurag Mittal v. Shaily Mishra Mittal](#), (2018) 9 SCC 691.

“17. In light of these established principles of statutory interpretation, we shall now proceed to advert to the specific provisions that are the subject of the present controversy. The narrow interpretation of Section 89 of CPC and [Section 69A](#) of the 1955 Act sought to be imposed by the Petitioner would lead to an outcome wherein parties who are referred to a Mediation Centre or other centres by the Court will be entitled to a full refund of their court fee; whilst parties who similarly save the Court’s time and resources by privately settling their dispute themselves will be deprived of the same benefit, simply because they did not require the Court’s interference to seek a settlement. Such an interpretation, in our opinion, clearly leads to an absurd and unjust outcome, where two classes of parties who are equally facilitating the object and purpose of the aforesaid provisions are treated differentially, with one class being deprived of the benefit of [Section 69A](#) of the 1955 Act. A literal or technical interpretation, in this background, would only lead to injustice and render the purpose of the provisions nugatory – and thus, needs to be departed from, in favour of a purposive interpretation of the provisions.”

6. Having held so, the order of Supreme court also clarified in para 19 of its judgment that Section 16 of the Court fee Act, 1870 is pari materia with Section 69-A of the Madras Court fee and Suit Valuation Act 1955 and hence the principle stated in the judgment are equally applicable. In view of the aforesaid clear enunciation of law by the Supreme Court, the appellants are entitled to refund of Court fee.

7. Accordingly, the appeal is **dismissed** as withdrawn and it is directed that the appellants shall be entitled to refund of Court fee from the Collector upon production of the certified copy of this order.

**Sd/-**  
**(Manindra Mohan Shrivastava)**  
**Judge**

**Sd/-**  
**(Vimla Singh Kapoor)**  
**Judge**