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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 09.02.2022

CORAM:

THE HON'BLE MR. JUSTICE M. DURAISWAMY
AND

THE HON'BLE MRS. JUSTICE T.V. THAMILSELVI

A.S.Nos.252 &482 of 2020 and 6 & 175 of 2021

N. Periyasamy ... Appellant in A.S.No.252/2020

C.M.Asaithambi ... Appellant in A.S.No.482/2020

V.K. Renganathan ... Appellants in A.S. Nos.6 & 175/2021

Vs.

V.K.Renganathan ... Respondents in A.S.Nos.252 &482/2020

Periyasamy ... Respondent in A.S.No.6/2021

Asaithambi ... Respondent in A.S.No.175/2021

A.S.No.252 & 482 of 2020 : Appeals filed under Section 96 of CPC against the judgment and decree dated 28.02.2019 made in O.S. Nos.65 and 66 of 2014 on the file of learned I Additional District Court, Salem.

A.S.No.6 & 175 of 2021 Appeal is filed under Section 96 of CPC read with Order XLI Rule 2 of CPC against the judgment and decree dated 28.02.2019 made in O.S. Nos.65 & 66 of 2014 on the file of Additional District Court, Salem.

For Appellants in A.S.
Nos.252 &482/2020 : Mr. N. Manoharan

For Appellants in A.S.
Nos.6 & 175/2021 : Mr. M.Nandhakumar

For Respondent in A.S. : M/s.M.Nandakumar
Nos.252 & 482/2020 for Eswar Kumar & Rao
for Respondent

For Respondent
in A.S.No.6/2021 : Mr. N. Manoharan



COMMON JUDGMENT

(Judgment was delivered by M. DURAISWAMY, J.)

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Mr. N. Manoharan, learned counsel appearing for the appellants in A.S. Nos.252 &482 of 2020 and Mr. M.Nandhakumar, learned counsel appearing for the appellants in A.S. Nos.6 & 175 of 2021 submitted that the matters have been settled out of court and seek permission of this court to withdraw the above appeals as "settled out of court". The learned counsels have also given letters to the Registry for listing the above Appeals under the caption 'for withdrawal'.

2. The learned counsel appearing for the appellants submitted that the appeals may be dismissed as "Settled Out of Court" and in view of the Judgment reported in 2021(3) SCC 560 [High Court of Judicature at Madras, Represented by its Registrar General Vs.. M.C. Subramaniam and others], the appellants are entitled to get refund of the entire court fee paid in the First Appeals.

3. The Hon'ble Supreme court, in the above referred judgment has held as follows:-

"..... 20. Thus, even though a strict construction of the terms of Section 89, CPC and 69A of the 1955 Act may not encompass such private negotiations and settlements between the parties, we emphasize that the participants in such settlements will be entitled to the same benefits as those who have been referred to explore alternate dispute settlement methods under Section 89, CPC. Indeed, we find it puzzling that the Petitioner should be so vehemently opposed to granting such benefit. Though the Registry/State Government will be losing a onetime court fee in the short term, they will be saved the expense and opportunity cost of managing an endless cycle of litigation in the long term. It is therefore in their own interest to allow the Respondent No. 1's claim.

21. Thus, in our view, the High Court was correct in holding that Section 89 of the CPC and Section 69A of the 1955 Act be interpreted liberally. In view of this broad purposive construction, we affirm the High Court's conclusion, and hold that Section 89 of CPC shall cover, and the benefit of Section 69A of the 1955



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Act shall also extend to, all methods of out-of-court dispute settlement between parties that the Court subsequently finds to have been legally arrived at. This would, thus, cover the present controversy, wherein a private settlement was arrived at, and a memo to withdraw the appeal was filed before the High Court. In such a case as well, the appellant, i.e., Respondent No. 1 herein would be entitled to refund of court fee."

4. In view of the ratio laid down by the Hon'ble Supreme Court in the judgment reported in 2021(3) SCC 560 (cited supra), the appellants are entitled to get refund of the entire court fee.

5. Accordingly, the Appeals are dismissed as "settled out of court" and the appellants are entitled to get refund of the entire court fee in the First Appeals. No costs.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

Rj

To:

1. The I Additional District Court,
Salem.
2. The Correspondent Seat,
CO Section,
High Court, Madras.

+3ccs to Mr.N.Manokaran, Advocate, S.R.Nos.8421 to 8423

A.S.Nos.252 &482 of 2020 and 6 & 175 of 2021

SPD(CO)
SU(14/03/2022)