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C.R.P.Nos.2290 & 2291 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2022

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

C.R.P.Nos.2290 & 2291 of 2022

M.Saraswathy

... Petitioner in both Petitions

Vs.

S.Palaniappan

... Respondent in both Petitions

PRAYER in C.R.P.No.2290 of 2022: Civil Revision Petition has been filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 19.11.2021 made in un-numbered I.A.No. of 2021 in O.S.No.113 of 2016 on the file of the learned III Additional District Judge, Salem.

PRAYER in C.R.P.No.2291 of 2022: Civil Revision Petition has been filed under Article 227 of the Constitution of India, against the Judgment and Decree dated 07.08.2021 passed in pursuance of Memo dated -/07/2021, in O.S.No.113 of 2016 on the file of the learned III Additional District Judge, Salem, in so far as against the Petitioner/Plaintiff, particularly clause (ii) of the decree in not ordering refund of court fee is concerned.

For Petitioner : Mr.P.Sivakumar



C.R.P.Nos.2290 & 2291 of 2022

(In both Petitions).

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COMMON ORDER

The Petitioner herein had filed these Civil Revision Petitions seeking to set aside the order passed by the learned Additional District Judge, Salem in O.S.No.113 of 2016.

2. The Petitioner herein is the Plaintiff before the learned III Additional District and Session Judge, Salem. The Petitioner had filed O.S.No.113 of 2016 seeking recovery of money against the Defendant. The suit was decreed ex-parte. Subsequently, the Defendant filed I.A., seeking to set aside the ex parte decree. Accordingly, the exparte decree was set aside. Subsequently, the Petitioner herein as Plaintiff before the learned III Additional District Judge, Salem filed a Memo stating that the Plaintiff and Defendant prayed to set aside the exparte decree stating that the subject matter of the dispute herein has been amicably settled between the parties.

3. The Petitioner herein had filed C.R.P.No.2190 of 2022, wherein the



Petitioner herein had filed I.A. seeking revision which was also rejected by the learned III Additional District Judge, as per the order page 27, which is extracted hereunder:-

*“i) That this application be and the same is hereby rejected accordingly.
ii) that there be no cost.”*

4. The learned Counsel for the Petitioner relied on a judgment reported in **2014(6) CTC 216** and the relevant paragraph is extracted hereunder:-

“Tamil Nadu Court Fees and Suits Valuation Act, 1955 (T.N.Act 14 of 1955), Section 69-A Code of Civil Procedure, 1908 (5 of 1908), Section 89 – Constitution of India, Article 226 - Appeal against Decree in Suit for recovery of money - Pending Appeal, matter settled by parties themselves -Whether refund of entire Court-fee can be ordered – Even though matter was not referred to Lok Adalat, parties have voluntarily settled matter – Such step has to be encouraged – Normally, for refund of Court fee, parties have to file Application before Lok Adalat – However, High Court is having ample power to order refund of Court-fee, in case of settlement between parties. Accordingly, refund



of entire Court-fee ordered.”

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5. Further the learned Counsel for the Petitioner relied on the judgment ***in the case of N.J.Senthil Kumar Vs N.B.Subash in S.A.No.1374 of 2013*** and the relevant paragraph is extracted hereunder:-

“8.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.”

6. In the light of the above judgments relied on by the learned Counsel for the Petitioner/Plaintiff, the order passed by the learned III Additional District Judge denying the refund of Court fees on the ground that the evidence of the Plaintiff has already been recorded is found unacceptable. Therefore, the order alone is set aside.

In the result, both these Civil Revision Petitions are allowed.



C.R.P.Nos.2290 & 2291 of 2022

WEB COPY

Consequently, the fair and decretal order dated 19.11.2021 passed by the learned III Additional District Judge, Salem, dismissing the unnumbered I.A.No..... of 2021 in O.S.No.113 of 2016 filed by the Plaintiff seeking refund of Court Fees as the parties had settled the dispute amicably is set aside and the Petition is allowed.

The order and decretal order dated 07.08.2021 rejecting the Memo dated .../07/2021 in O.S.No.113 of 2016 is also set aside and the memo is recorded. The Plaintiff is entitled to refund of Court Fees as prayed for in the Interlocutory Application. No costs.

25.07.2022

Index : Yes/No
Internet : Yes/No
kmm

To
The III Additional District Judge,
Salem.

SATHI KUMAR SUKUMARA KURUP, J.



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