



C.M.P. No.11618 of 2022
in S.A.No.125 of 2016

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S.A. No. 125 of 2016

T.V. THAMILSELVI, J.

This petition has been filed seeking to permit the petitioner/appellant to withdraw a sum of Rs.1,00,000/-, which was deposited by the petitioner herein to the credit of C.M.P.No. 2628 of 2016 in S.A.No.125 of 2016.

2. Mr.S.Saravanan, learned counsel for petitioner/appellant submitted that at the time of filing the above Second Appeal, as per the order of this Court, he has deposited a sum of Rs.1,00,000/- to the credit of C.M.P.No.2628 of 2016 in S.A.No.125 of 2016 by filing a memo dated 11.08.2016. Subsequently, the above Second Appeal was disposed of. Hence, there is no necessity to retain the amount.

3. Mr.R.Asokan, learned counsel for respondent appeared and submitted that he has no objection to permit the petitioner to withdraw the amount.



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4. Considering the above facts and circumstances and on perusal of records, it is seen that originally, the suit was filed for specific performance by the respondent/plaintiff and since the appellant, being a defendant, against whom, the suit was decreed. Aggrieved over that, he has preferred an appeal in A.S.No. 36 of 2013 before the Addl. District Court No.3, Dharapuram, in which, the trial court findings were confirmed. Against which, the above Second Appeal has been preferred, wherein this Court allowed the appeal by setting aside the order of the trial court on 28.08.2019. Therefore, the defendant is entitled to withdraw the amount, since, against whom, there is no order of the court. Accordingly, being satisfied with the reasons stated in the petition, this petition is allowed and the petitioner is permitted to withdraw a sum of Rs.1,00,000/- within a period of one week from the date of receipt of copy of this order on due acknowledgment in the manner known to law.

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