



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

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 17.06.2022

CORAM:

THE HON'BLE MR. JUSTICE M. DURAISWAMY

AND

THE HON'BLE MR. JUSTICE SUNDER MOHAN

**A.S.No.550 of 2019
and C.M.P.Nos.16521 of 2019
& 5962 of 2022**

K.K.Srinivasan

... Appellant

Vs.

1.C.Sarojammal

2.C.Rajagopal

... Respondents

(represented by Power of Attorney Agent G.Dinesh Kumar)

Appeal filed under Section XLI of the Code of Civil Procedure against the judgment and decree dated 22.04.2019 passed in O.S.No.113 of 2017 on the file of the Principal District Judge, Krishnagiri.

For Appellant : Mr.S.Ravi

For Respondent : Mrs.R.S.Lakshmipriya



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J U D G M E N T
(Judgment was delivered by M. DURAISWAMY, J.)

When the appeal is taken up for hearing, Mr.S.Ravi, learned counsel for the appellant and Mrs.R.S.Lakshmipriya, learned counsel who had filed vakalat for the respondents today, submitted that the parties had settled the matter out of Court.

2.The learned counsel for the appellant filed the memorandum of compromise dated 30.05.2022, which is signed by the appellant, the Power Agent of the respondents, the learned counsels for the appellant and the respondents.

3.The learned counsel on either side submitted that in view of the compromise entered into between the parties, the appeal may be dismissed as settled out of Court.

4.The learned counsel for the appellant also submitted that the Registry may be directed to refund the entire Court fee paid by the



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appellant for the reason that the parties had settled the matter out of Court.

5.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 appellant is entitled to get refund of the entire court fee paid in the First Appeal. 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 one time 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



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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 69](#) A 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 69](#) A of the 1955 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.”

6. Having regard to the submissions made by the learned counsel on either side and also 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 appellant is entitled to get refund of the entire Court fee. The memorandum of compromise dated 30.05.2022 is taken on record and



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shall form part of the decree to be passed in the above appeal. In view of the compromise entered into between the parties, the appeal is dismissed as settled out of Court. The Registry is directed to refund the Court fee paid by the appellant. No costs. Consequently, the connected miscellaneous petitions are closed.

Index : Yes/No
va

[M.D., J.] [S.M., J.]
17.06.2022



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