



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2022

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

A.S.(MD)No.25 & 26 of 2016 and
CMP(MD) No.1613 of 2016

WEB COPY

A.S.(MD)No.25 of 2016 :

1.T.Baby Ammal,
2.M.Thangam

Appellants/Defendants

Vs.

R.Jeyamurali

Respondent/Plaintiff

A.S.(MD)No.26 of 2016 :

1.M.Thangam
2.T.Babi Ammal

Appellants/Plaintiffs

Vs.

R.Jeyamurali

Respondent/Defendant

PRAYER in A.S.(MD)No.25 of 2016: Appeal Suit is filed under Section 96 of the Civil Procedure Code to set aside the judgment and decree passed in O.S.No.134 of 2012, dated 20.08.2014 by the learned I Additional District Judge (PCR), Tiruchirappalli and dismiss the above suit filed by the respondent herein by allowing this appeal suit.

PRAYER in A.S.(MD)No.26 of 2016: Appeal Suit is filed under Section 96 of the Civil Procedure Code to set aside the judgment and decree passed in O.S.No.156 of 2013, dated 20.08.2014 by the learned I Additional District Judge (PCR), Tiruchirappalli and decree the above suit filed by the appellants by allowing this appeal suit.

For Appellants : Mr.D.Shanmugaraja Sethupathi

For Respondent : Mr.R.Subramanian

(In both Appeal Suits)

C O M M O N J U D G M E N T

These Appeal Suits are filed as against the judgment and decree passed by the learned I Additional District Judge (PCR), Tiruchirappalli, in O.S.No.134 of 2012 and O.S.No.156 of 2013, dated 20.08.2014.



2.The learned counsel appearing for the appellants filed a memo stating that the matter has been settled out of Court. He also requests for refund of Court fee as well.

3. In pursuance of the memo filed by the learned counsel for the appellants, which is signed by both the parties, I feel that these Appeal Suits can be allowed to be withdrawn. With regard to refund of Court fee, the learned counsel cited the decision of the Honourable Supreme Court, reported in **2021 3 SCC Page 560, the High Court of Judicature at Madras, Rep by its Registrar General Vs. M.C.Subramaniam & others**, wherein, it was held as follows:-

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.

4.In view of the same, the appellants are entitled for refund of the court fee as well.

5.In the result, these Appeal Suits are dismissed as withdrawn and the court fee is also ordered to be refunded. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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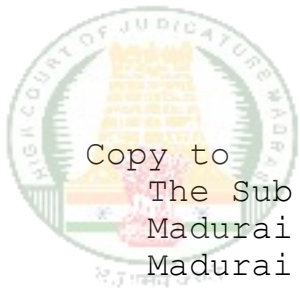
1.The I Additional District Court (PCR), Tiruchirappalli.

2.The Record Keeper,

Vernacular Section,

Madurai Bench of Madras High Court,

Madurai. (2 copies)



Copy to
The Sub Assistant Registrar, CO Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R.SUBRAMANIAN, Advocate (SR-9136[F] dated 01/03/2022)

+2 CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate (SR-9160 & 9161[F]
dated 01/03/2022)

COMMON JUDGMENT MADE IN
A.S.(MD)No.25 & 26 of 2016 and
CMP(MD) No.1613 of 2016
28.02.2022

NSN(CO)
TR(23.03.2022) 3P 8C