



A.S.No.129 of 2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 31/3/2023

C O R A M

The Hon'ble Mr.Justice **S.S.SUNDAR**

a n d

The Hon'ble Mr.Justice **P.B.BALAJI**

A.S.No.129 of 2005

a n d

C.M.P.Nos.1815 of 2005 and 661 of 2010

Conny Blom

...

Appellant

Vs

Sivasankar Impex

...

Respondent

PRAYER : Appeal Suit filed under Order 41 Rule 1 and Section 96 of C.P.C., against the decree and judgment dated 31/8/2004 in O.S.No.226 of 2004 on the file of IV Fast Track Court, Poonamallee, Chennai.

For appellant

...

Mr.Vinod Paul
for Mr.David Tyagaraj

For respondent

...

Mr.P.Mahalingam

- - - - -



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J U D G M E N T

(Judgment of the Court was delivered by S.S.SUNDAR, J)

This Appeal Suit has been filed against the decree and judgment, dated 31/8/2004, made in O.S.No.226 of 2004, on the file of IV Fast Track Court, Poonamallee, Chennai.

2. Heard Mr.Vinod Paul, learned counsel for the appellant and Mr.R.Mahalingam, learned counsel for the respondent.

3. Today, when the matter is taken up for hearing, learned counsel appearing for the appellant submitted that the matter is settled out of Court and therefore, seeks withdrawal of the appeal. He has also made an endorsement to that effect.

4. In view of the above, **Appeal Suit is dismissed as Settled Out of Court.**

5. However, the appellant has prayed for refund of the Court fees, under Section 69 of the Tamil Nadu Court Fees & Suit Valuation Act, 1955.



The learned counsel appearing for the appellant, brought to the notice of this

Court the judgment reported in **2014 (6) CTC – 252, A.GNANASELVAN**

Vs. B.A.XAVIER (DIED), wherein, it is held as follows:-

“8. We are inclined to accede to the request of the learned counsel for the appellant, specifically considering the fact that the appeal has been withdrawn, after settlement. The appellant would have been able to obtain refund of the Court-fees under Section 69 A of the said Act, on a recourse of ADR Mechanism under Section 89 of C.P.C., being resorted to. The said provision was introduced as an incentive to aid in assistance to ADR Mechanism as well the process of settlement of *lis*. The only difference is that the present settlement of *lis* is *inter-se* parties, without intervention of a mediator.

9. We are sure that the application to be preferred by the appellant would receive appropriate consideration by the Government *ex gratia* and



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misericordia do mini regis, keeping in mind the salutary object of encouraging settlement in whatever form feasible albeit *inter-se* settlement between the parties. The Registry is directed to return the defaced Stamp Papers, with due certificate to enable the appellant to make such an application. We would expect disposal of such application within a period of two months of receipt of the same from the appellant.”

6. It is pertinent to mention that request for refund of Court fee is made even in 2010. In view of the above, we are inclined to accede to the request of the learned counsel appearing for the appellant. Accordingly, **C.M.P.No.661 of 2010, filed to refund the Court fee of Rs.2,22,606/- affixed by the appellant in A.S.No.129 of 2005 is allowed.**

7. In such a view of the matter, appellant is directed to submit a request letter, along with a copy of this order to the Registry, within a period of one week from today. On receipt of such request, Registry is directed to return the defaced stamp papers with due certificate to enable the appellant



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to make such application before the Treasury or refund the Court fee of Rs.2,22,606/- (Rupees Two lakhs twenty two thousand six hundred and six only), to the appellant, following the procedure, within a period of two months, thereafter.

No costs. Consequently, the connected C.M.P.No.1815 of 2005 is closed.

(S.S.S.R,J) (P.B.B.,J)
20th March, 2023

mvs.

Inde: Yes/No

Neutral Citation: Yes/No

To

I Fast Track Court, Poonamallee, Chennai.



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S.S.SUNDAR,J

A N D

P.B.BALAJI,J

mvs.

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