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C.S.(Comm.Div.).No.121 of 2020



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2023

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**THE HONOURABLE Ms. JUSTICE P.T. ASHA**

**C.S.(Comm.Div.).No.121 of 2020**

M/s.Teemage Builders Pvt. Ltd.  
Rep.by its Manager, Legal,  
Mr.G.B.Arun Jose,  
having registered office at:  
No.6/35, College Road,  
1st Cross Street, Tirupur-641 602.

*(Amended as per order dt-05.04.2022 in A.No.1377/2022).*

...Plaintiff

**Vs.**

1.M/s.R.Krishnamurthy and Co.  
Rep. by its Proprietor Mr. R.Krishnamurthy,  
having registered office at:  
T-1, 3rd Floor,  
Crescent Court Apartment  
Plot No.65 and 66, Varasidhi Vinayagar Koil Street,  
Chinmayanagar Stage, Chennai-92.  
*Also having head office at,*  
Sapthamluka Apartments,  
2-E, Front Block, # 283, old 188/B,  
P.H Road, Kilpauk, Chennai-600010.

2. NBCC (INDIA) LTD.  
A NAVRATNA GOVT OF INDIA ENTERPRISE NLC WORKS,  
Rep. by its Authorized Signatory.  
No.135, EVR Periyar Salai,  
Poonamallee High Road,  
Kilpauk, Chennai-600010

...Defendants



**PRAYER:** Plaintiff is filed under Order IV Rule 1 of Madras High Court Original Side Rules. read with Order VII Rule 1 read with Section 7 of Commercial Courts, Commercial Division and Commercial Division of High Court Act 2015 praying for:-

(a) The Plaintiff seeks to direct the defendant to pay a sum of Rs.4,95,54,169/- towards the principal amount of Rs.3,72,99,412/- and Interest amount of Rs.1,22,54,756/- @ 21 per annum.

b) The Plaintiff is also seeking permanent injunction restraining the 1st and the 2nd defendants from obtaining the Structural Stability Certificate from anyone except the Plaintiff herein after payment of the sum of the amount

c) not prayed in prayer (a)

d) Directing the defendants to pay the Plaintiff the cost of this Suit.

For Plaintiff : M/s.G.Prabhu

For Defendants : M/s.A.Suresh Selvakumar [D.1]  
Ex parte [D.2]



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### **JUDGMENT**

The plaintiff and the 1st defendant have entered into a compromise which has been reduced into writing in a Memorandum of Understanding dated 10.07.2023. The 2nd defendant has been set ex parte. In addition to the Memorandum of Understanding dated 10.06.2023, a Joint Memo of Compromise has been entered into on 14.07.2023 which according to the learned counsel is a repeat of the terms included in the Memorandum of Understanding dated 10.06.2023. The Joint Compromise memo is signed by the plaintiff and the 1st defendant and also by their respective counsels. Both the Memorandum of Understanding dated 10.07.2023 and the Joint Memo of Compromise dated 14.07.2023 are taken on file.

2. Accordingly this Civil Suit is decreed in terms of the Joint Memo of compromise dated 14.07.2023. The terms of the Joint Memo of compromise signed by the plaintiff and the 1st defendant shall form part and parcel of this judgment and decree.



3. The Hon'ble Apex Court in ***High Court of Judicature at Madras vs. M.C.Subramaniam and others reported in (2021) 3 SCC 560*** held that in cases where the matter is settled out of court by private negotiation of parties, the refund of court fee can be ordered. The relevant observation of the Hon'ble Apex Court is as follows:-

*“23. We find ourselves in agreement with the approach taken by the High Courts in the decisions stated supra. The purpose of Section 69-A is to reward parties who chosen to withdraw their litigations in favour of more conciliatory dispute settlement mechanisms, thus saving the time and resources of the Court, by enabling them to claim refund of the Court fees deposited by them. Such refund of Court, though it may not be connected to the substance of the dispute between the parties, is certainly an ancillary economic incentive for pushing them towards exploring alternative methods of dispute settlement. As the Karnataka High Court has rightly observed in Kamalamma the parties who have agreed to settled their disputes without requiring judicial intervention under Section 89 CPC are even more*



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*deserving of this benefit. This is because by choosing to resolve their claims themselves, they have saved the state of the logistical hassle of arranging for a third-party institution to settle the dispute. Though arbitration and mediation are certainly salutary dispute resolution mechanisms, we also find that the importance of private amicable negotiation between the parties cannot be understated. In our view, there is no justifiable reason why Section 69-A should only incentivise the methods of out-of-Court settlement stated in Section 89 CPC and afford step-brotherly treatment to other methods availed by the parties.”*

4. In view of the law laid down by the Hon'ble Apex Court in the above said decision, the plaintiff is entitled to get refund of the Court fee affixed by it in the plaint. No costs.

**14.07.2023**

Index : Yes/No  
Internet : Yes/No  
Neutral Citation : Yes/No  
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**P.T. ASHA, J,**

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