



Application No.1370 of 2023
in C.S.(Comm.Div.) No.3 of 2021

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S.SOUNTHAR, J.

The instant application is filed by the applicant seeking refund of Court fee paid by him in C.S.No.3 of 2021, which had been settled out of Court.

2. This Court while recording the settlement reported by the parties on 06.12.2021 observed as follows;

“ 4. In view of the above development, the Civil Suit is decreed in terms of Memorandum of Compromise and the Memorandum of Compromise shall form part of the decree. Since the matter has been settled out of Court even before the stage of framing of issues, this Court is inclined to permit the plaintiff for the refund of the entire Court fees that was paid at the time of filing of the suit. It is left open to the learned counsel for the plaintiff to file appropriate application in this regard. Consequently, connected applications are closed, if any.”

3. In pursuance of the liberty granted by this Court, the applicant has come up with this application seeking refund of the Court fee paid by him in the plaint by relying on the judgement of the Hon'ble Apex Court in ***High Court of Judicature at Madras vs. M.C.Subramaniam and others*** reported in



(2021) 3 SCC 560 for the proposition that even in case the matter is settled out of Court by private negotiation of parties, they are entitled to refund of the Court fee. In the said decision, the Hon'ble Apex Court said that parties who have agreed to settle their dispute without requiring judicial intervention are entitled to get refund of the Court fee. 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 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. ”

In view of the law laid down by the Hon'ble Apex Court in the above said decision, the applicant is entitled to refund of the Court fee affixed by him in the plaint. Therefore, this Court is inclined to order this application as prayed for.

08.03.2023

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