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C.S.(Comm.Div.).No.41 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2023

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.S.(Comm.Div.)No.41 of 2023

Sarita Bhandari

...Plaintiff

Vs.

1.Mr.Shibu.K.

Proprietor of M/s.Thameens Films,
No.42/42, Avanika Apartment F1,
Vellar Street, Kodambakka,
Chennai – 600024.

2.Riya Shibu

Proprietor of M/s.HR Pictures,
No.42/2, Avanika Apartment F1,
Vellar Street, Kodambakka,
Chennai – 600024.

...Defendants

PRAYER: Complaint is filed under Order IV Rule 1 of the Original Side Rules and Order VII Rule 1 C.P.C. read with Section 7 of the Commercial Courts Act, 2015 (Act No.4 of 2016) praying for:-

a) Directing the Defendants to pay Rs.1,03,75,000/- (Rupees One Crore Three Lakhs Seventy Five Thousand Only) to the Plaintiff together with 18% interest per annum for the principal amount of Rs.60,00,000/- (Rupees Sixty Lakhs), from the date of plaintiff till the date of realization.



b) Costs of the suit.

For Plaintiffs : M/s.E.Hariharan
For Defendant : M/s.T.Thiageswaran
for M/s.Waraon & Sai Rams
[D.1 & D.2]

JUDGMENT

A memo dated 04.04.2023 has been filed on behalf of the defendants stating that the entire suit claim has been settled and therefore the suit may be dismissed as settled out of Court. The said memo dated 04.04.2023 is taken on file.

2. The learned counsel for the plaintiff has made the following endorsement:- *"Suit is withdrawn as per instructions of the plaintiff with refund of Court Fee, since matter is settled out of Court"*



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3. In view of the endorsement made by the learned counsel for the plaintiff and the memo dated 04.04.2023 filed on behalf of the Defendants, the suit is dismissed as settled out of Court.

4. 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



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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.”



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5. 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 her in the plaint.

6. Accordingly, the suit is dismissed as settled out of Court. No costs.

26.07.2023

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

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