



A.No.1572 of 2023
in C.S. No.737 of 2011

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R.N.MANJULA, J.

This application has been filed to get an order of payment of Rs.75,00,000/- which has already been deposited by the respondent/plaintiff in terms of compromise decree dated 20.02.2023.

2. Earlier vide order dated 20.02.2023 it has been observed that the dispute between the parties have been compromised and a memo of compromise dated 20.02.2023 is also ordered to be registered by the Sub-Registrar, Sowcarpet. This is primarily due to the loss of the original document of the respondent / plaintiff which was handed over to the applicant / defendant at the time of executing the mortgage. Since the mortgage is discharged after the mortgage amount was repaid to the applicant / defendant, the respondent /plaintiff had claimed the original documents to be returned to him. However the defendant had stated that he had lost those documents and he is not in the position to return the same.

3. After having negotiated all the issues, a memo of compromise has been filed before the Court and the same has also been registered on



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28.03.2023. Since the amount deposited is the mortgage amount payable to the applicant / defendant and the matter has also ended in a compromise, the respondent / plaintiff normally would not have any counter but it is submitted by the learned counsel for the respondent / plaintiff that the direction of the Court as to the registration of the terms of the compromise was done by the respondent / plaintiff himself and for which he needed to spend a sum of Rs.74,510/-. The plaintiff was compelled to register the said document because of the default on the part of the applicant / defendant in losing his original deeds. Now the learned counsel for the respondent / plaintiff submitted that he would object the cheque application filed by the applicant / defendant by claiming that he is entitled to compensation.

4. It is understandable that the applicant / defendant should be made liable for the amounts spent by the respondent / plaintiff in registering the memo of compromise. However the respondent cannot be allowed to raise a fresh cause of action by claiming compensation on a matter which has already been compromised between parties and the terms of compromise has also been recorded.



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5. The learned counsel for the respondent / plaintiff submitted that it would be appropriate if the applicant / defendant is allowed to withdraw the entire sum of Rs.74,00,000/- lying in Court's deposit and he may be directed to issue cheque for a sum of Rs.1,00,000/- to the respondent / plaintiff in terms of the above discussions.

6. Taking into consideration of the above submission the applicant / defendant is permitted to withdraw the sum of Rs.75,00,000/- from the Court's deposit and the applicant / defendant is directed to pay a sum of Rs.1,00,000/- to the respondent / plaintiff either in cash or cheque.

7. With the above direction, this application is allowed.

05.04.2023

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