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C.S.(Comm.Div).No.90 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.S.(Comm.Div).No.90 of 2023

and

A.No.2441 of 2023

and

OA.No.340 of 2023

Vijay Kothari

... Plaintiff

Vs.

1.Kaushalyarani

2.M/s.Qube Cinema Technologies Private Limited
No.42, Dr.Ranga Road
Mylapore
Chennai 600 004.

3.M/s.UFO Moviez India Limited
No.178/3&4, Kumaran Colony Main Road
Kumaran Colony, Vadapalani
Chennai 600 026.

4.M/s.Prasad Xtreme Digital Cinema Network Pvt.Ltd
No.58, Arunachalam Road
Saligramam
Chennai 600 093.

...Defendants



C.S.(Comm.Div).No.90 of 2023

Prayer: This Civil Suit is filed under Order VII Rule 1 of the Code of Civil Procedure, r/w Order IV, Rule 1 of the Madras High Court O.S.Rules Section 7 of the Commercial Courts Act No.04 of 2016, praying to pass the judgment and decree:-

(i) for directing the first defendant to pay the plaintiff a sum of Rs.1,03,20,000/- together with further interest at 24% p.a., Principal amount Rs.60,00,000/- from the date of plaint till the date of realisation;

(ii) for permanent injunction restraining the defendants, their agents servants, distributors or anybody claiming through or under them from in any manner releasing, distributing or exploiting the film titled “TAMILARASAN” (Tamil, Colour) anywhere in the world without first settling the dues of the plaintiff as per the letter of undertaking dated 20.04.2020 executed by the first defendant in favour of the plaintiff;

(iii) directing the defendants to pay the costs of the suit; and

For Plaintiff : Mr.A.Chidambaram

For Defendants : Mr.E.Hariharan



ORDER

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The learned counsel for the plaintiff has filed a memo stating that the dispute in the suit has been settled between the plaintiff and the first respondent. Hence, the suit may be dismissed as withdrawn. The Memo filed by the learned counsel for the plaintiff dated 24.04.2023 is recorded.

2. In view of the same, the suit is dismissed as withdrawn.

3. As per the law laid down by the Hon'ble Apex Court in ***High Court of Judicature at Madras vs. M.C.Subramaniam and others reported in (2021) 3 SCC 560***, even in case the matter is settled out of Court by parties, they are entitled to get 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 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



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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



C.S.(Comm.Div).No.90 of 2023

WEB COPY

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 him in the plaint.

5. Accordingly, the suit is dismissed as withdrawn. No costs. Consequently, connected Miscellaneous Petitions are closed.

24.04.2023

Index : Yes / No
Internet : Yes / No
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