



C.S.No.73 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2023

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

C.S(Comm. Div.)No.73 of 2021
and A.No.3632 of 2021

Murugappa Organo Water Solutions Pvt. Ltd.,
A Company incorporated under the Companies Act, 1956,
Having its registered office at 43, Moore Street, Parry House,
3rd Floor, Chennai – 600 001.
Represented Mr.David Fernandes
Authorised Signatory ...Plaintiff

Vs.

Paques Environmental Technology India Pvt. Ltd.,
A Company incorporated under the Companies Act, 1956,
Rep. by its Authorized Signatory Mr.Sivakumar
Having its registered office at New No.59, (Old No.57),
PGP House,
First Floor, Sterling Road,
Nungambakkam, Chennai – 600 034. ... Defendant

PRAYER: This Civil Suit is filed under Order VII Rule 1 of Civil Procedure Code, 1908 read with Sections 2(c)(i) & (vi) of the Commercial Courts Act 2015 and Order 4 Rule 1, 2 and 3 O.S. Rules, praying to pass the judgment



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and decree:-

a) For a sum of Rs.1,30,14,317/- (rupees One Crore Thirty Lakhs Fourteen Thousand Three Hundred and Seventeen Only) along with interest at the rate of 18% per annum (being a commercial transaction) from the date of plaint till the realisation in full;

b) For costs of suits and;

c) For such further or other reliefs as this Court may deem fit and proper in the circumstances of the case.

For Plaintiff : Mr.T.Ravichandran

For Defendant : Mr.Manikandan
for Mr.K.Senthilkumar

JUDGMENT

The learned counsel for the plaintiff made an endorsement in the plaint, seeking leave of this Court to withdraw the suit as settled out of Court. The learned counsel for the defendant also made an endorsement in the plaint, seeking leave of the Court to withdraw the Counter claim made by the defendant as settled out of Court.

2. Recording the endorsements made by both the learned counsel for



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the plaintiff and the defendant, the suit as well as the counter claim are dismissed as settled out of Court.

3. The learned counsel for the plaintiff and the defendant made a request for refund of the Court fee, by relying on the judgment 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



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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 plaintiff and the defendant are entitled to refund of the



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Court fee affixed by them in the plaint as well as the Counter claim respectively. Consequently, connected application is closed.

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Index: Yes/No

Speaking Order: Yes/No

S.SOUNTHAR, J.



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