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C.M.P.No.5927 of 2023 in
O.S.A.No.SR97006 of 2022

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R.MAHADEVAN, J.

AND

MOHAMMED SHAFFIQ, J.

(Order of the court was made by R.MAHADEVAN, J.)

This civil miscellaneous petition has been filed by the petitioner to grant an order for refund of the court fee of Rs.5,04,650/- paid towards the above O.S.A.No.SR97006 of 2022.

2. In the affidavit filed in support of this petition, it is stated by the petitioner that she preferred an appeal vide OSA(SR) No.97006 of 2022, against the judgment and decree dated 24.03.2022 in CS.No.246 of 2021 and paid e-court fee of Rs.5,04,650/- on 02.09.2022. However, the said appeal was withdrawn at the SR stage itself on 02.09.2022 and an endorsement has also been made in the appeal and accordingly, the appeal papers were returned. Thereafter, the petitioner applied for the refund of court fee by filing an application before the Treasurer, Government of Tamil Nadu, Chennai Collectorate, dated 22.09.2022. Though the said application was duly received and acknowledged, the Collector, Chennai, sent a letter dated 31.10.2022 stating that the court fee paid is in the status of locked and hence, it requires an order of this court, so as to release the court fee lying in the account of the appeal. Therefore, this civil miscellaneous petition.



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3. The learned counsel for the petitioner submitted that even before numbering the same, the petitioner has withdrawn the appeal at SR stage and therefore, she prayed for refund of court fee. In support of her claim, the learned counsel placed reliance on a judgment of the Hon'ble Supreme Court in *S.L.P. (Civil) Nos.3063 - 3064 of 2021 dated 17.02.2021 [The High Court of Judicature at Madras v. M.C.Subramaniam & others]*, wherein, in paragraph 21, it was held as follows:

"Thus, in our view, the High Court was correct in holding that Section 89 of the CPC and Section 69-A of the 1955 Act be interpreted liberally. In view of this broad purposive construction, we affirm the High Court's conclusion, and hold that Section 89 of CPC shall cover, and the benefit of Section 69-A of the 1955 Act shall also extend to, all methods of out-of-court dispute settlement between parties that the Court subsequently finds to have been legally arrived at. This would, thus, cover the present controversy, wherein a private settlement was arrived at, and a memo to withdraw the appeal was filed before the High Court. In such a case as well, the appellant, i.e., Respondent No.1 herein would be entitled to refund of court fee."

Thus, according to the learned counsel, the petitioner is entitled for refund of court fee.

4. Considering the reasons stated in the accompanying affidavit coupled with the submissions made by the learned counsel for the petitioner, more particularly that the petitioner has withdrawn the suit prior to numbering the same, and also in the light of the judgment of the Hon'ble Supreme Court referred to above, this court directs the Registry to refund the court fee paid by the petitioner, in accordance with law.



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5. Accordingly, this Civil Miscellaneous Petition is ordered.

[R.M.D., J.] [M.S.Q., J.]
17.03.2023

nsd



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