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Appeal(CAD) No. 1 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2023

CORAM

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR.JUSTICE P. DHANABAL**

Appeal(CAD) No. 1 of 2023

SEPC Limited
4th Floor, Bascon Futura SV I.T Park,
Venkatanrayana Road,
T.Nagar, Chennai – 600017
Rep. By its Deputy General Manager (Accounts) ..Appellant

Vs

M/s.VP Petro6 Engineers and Consultants Pvt. Ltd.,
Elnet Software City III Floor,
Module 34, T.s.No. 140
Rajiv Gandhi Salai, Tharamani,
chennai – 600113.
Rep by Director A.G.Ravindran. ..Respondent

Prayer: Appeal is filed under Order 41 Rule 5 of CPC to stay the operation of the decree and judgment in C.O.S.No. 367 of 2022 dated 20.10.2022 passed by the Commercial Court, Egmore, Chennai pending disposal of the above first appeal.



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For Appellants : Mr. V.Suresh
For M/s. Shivakumar & Suresh

For Respondent : Mr R.Kannan
For Mr. S.V.Subramanian

JUDGMENT

(Order of the Court was made by D.KRISHNAKUMAR, J.)

Aggrieved by the decree and judgment in C.O.S.No. 367 of 2022 dated 20.10.2022 passed by the Commercial Court, Egmore, Chennai, the present appeal has been filed.

2. When the matter was taken up for hearing on 21.11.2023, the learned counsels appearing for the parties concerned submitted before this Court that issue has been amicably settled between the parties and sought time to file a memo of settlement before this Court. At request of the learned counsels, the matter is posted today.

3. Today, the learned counsel appearing for the parties concerned submitted before this Court that they have amicably settled the dispute



between them. The appellant has filed a memo of settlement dated 29.11.2023 before this Court to that effect. The relevant portion of the settlement is extracted below;

“2.It is submitted that when the suit was earlier pending before the Original Side of this Hon'ble Court, in terms of the directions given by this Hon'ble Court in Appl. No. 6812 of 2017 in C.S.No. 802 of 2016 dated 22.03.2018, the appellant had deposited the entire amount of Rs.10,30,000/- with the Registry of this Hon'ble Court on 26.06.2016. In view of the transfer of the above suit to the City Civil Court, Chennai, the Registry has also transferred the deposited amount with interest amounting to Rs.10,86,436/- to the Registry of the City Civil Court in Chennai to the credit of the O.S.No. 4116 of 2019 on the file of the I Addl. City Civil Court, Chennai and the same was received on 16.12.2019. On verification it is confirmed that the Registry of the City Civil Court, Chennai has failed to re-deposit said received amount in an interest bearing fixed deposit account as per Order dated 22.03.2018 by this Hon'ble Court when the suit was earlier pending. At present only a sum of Rs.10,86,436/- is lying in the Registry of City Civil Court, Chennai. The suit was later transferred to the Commercial Division of the City Civil Court, Egmore, Chennai.

3. It is submitted that during January 2021, when the suit was pending before the City Civil Court, Chennai the appellant had



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given a settlement proposal of Rs.16,00,000/- after deducting the deposited amount. Now, the appellant is willing to pay the same amount of Rs.16,00,000/- with interest at the rate of 12% p.a from January 2021 to 20.12.2023 on the said amount as detailed below

Settlement amount	Rs.16,00,000/-
Interest from January 2021 to 20.12.2023 @ 12 % on Rs.16,00,000/-	Rs.5,56,800/-
Total	Rs.21,56,800/-
Less : Amount already deposited in the Court	Rs.10,86,436/-
Balance amount payable to the respondent	Rs.10,70,364/-

4. It is submitted that the appellant has no objection for withdrawing the amount lying in the City Civil Court Registry to the credit of O.S.No. 4116 of 2019 on the file of I Addl. City Civil Court, Chennai by the Respondent. The said amount can be withdrawn towards part settlement amount immediately by the Respondent and the balance amount of Rs.10,70,364/- paid vide Cheque No. 440549 dated 20.12.2023 drawn on Punjab National Bank, Large Corporate Bank, Chennai-600002 by the Appellant to the Respondent.

It is therefore prayed that this Hon'ble Court may be pleased to take the above memo on record and thus render justice."



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4. It is represented by the learned counsel for the appellant that in view of the above settlement arrived at between the parties, the present appeal may be disposed of by recording the aforesaid memo of settlement.

5. With regard to withdrawal of court fee, in light of the decision of the Hon'ble Supreme Court in ***Special Leave Petition (Civil) No. 3063 to 3064 of 2021, dated 17.02.2021 in the case of Registrar General, High Court of Judicature, Madras Vs.M.C. Subramanian & Others***, the appellant herein is entitled for withdrawal of the the court fee paid by them. The relevant portion is extracted below;

21. 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



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Court. In such a case as well, the appellant i.e., Respondent No.1 herein would be entitled to refund of court fee.”

6. Recording the aforesaid memo of settlement dated 29.11.2023, the appeal is disposed of. The said memo of settlement shall form part and parcel of the judgment. No costs.

7. In view of the above settlement, the respondent is permitted to withdraw a sum of Rs 10,86,436/- lying in the credit of O.S.No. 4116 of 2019 on the file of I Additional City Civil Court, Chennai on filing appropriate application.

(D.K.K., J.) (P.D.B., J.)

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