



C.R.P.No. 4885 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2023

CORAM:

THE HONOURABLE Mrs. JUSTICE T.V.THAMILSELVI

C.R.P.No. 4885 of 2023

M/s. Vee Surgicals, a partnership firm,
Represented by its Managing partner,
L. Moganraj

.. Petitioner

Vs

1.M/s. Vasan Health Care Private Limited,
Rep., by its Managing Director, M. Arun,
Having its Administrative office at No.10,
Annamalai Nagar Main Road,
Trichy – 620 018.

M.Arun (died on 15.11.2020)

2.Meera Arun

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and final order dated 01.09.2023 made in I.A.No.4 of 2023 in C.O.S.No.116 of 2023 insofar as refund of Court fee is concerned on the file of Commercial Court (District Judge Cadre), Coimbatore.

For Petitioner : Mr. V. Anandhamoorthy



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ORDER

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This Civil Revision Petition is filed challenging the order passed in I.A.No.4 of 2023 in C.O.S.No.116 of 2023 insofar as refund of Court fee is concerned on the file of Commercial Court (District Judge Cadre), Coimbatore.

2. The revision petitioner is the plaintiff in the suit in C.O.S.No.116 of 2023, wherein he filed the suit against the defendants / respondents herein for recovery of money. Defendants / respondents also filed a written statement but the defendants firm through its resolution professional moved application before the National Company Law Tribunal, Division Bench-I, Chennai, in IA(IBC)288(CHE)/2022 under Section 30 (6) & 31 of the Insolvency and Bankruptcy Code, 2016 read with Regulation 39 of the Insolvency and Bankruptcy Board of India. In the said proceedings, order was pronounced on 03.02.2023 whereby nominal amounts were fixed to several creditors including the plaintiff. That proposal was accepted by the plaintiff so he inclined to withdraw the suit and also prayed the Court to refund the Court fee. The trial Judge permitted to withdraw the suit but not



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incline to refund the Court fee stated that the plaintiff / petitioner herein filed an application to withdraw the suit in I.A.No.4 of 2023. Accordingly, the suit was dismissed as withdrawn as it was not settle between the parties, the trial Court refused to return the Court fee. Aggrieved that portion alone, the plaintiff / petitioner herein preferred the revision.

3. The learned counsel for the petitioner submits that in the proceeding, before the National Company Law Tribunal, as one of the creditor along with other several creditors, the nominal amount was fixed as per the proceeding initiated by the defendants, is a judicial settlement, therefore, it also amounts to settlement between the parties. Therefore, the trial Judge ought to have refund the Court fee.

3.1. The learned counsel for the petitioner also placed reliance on the judgment of the Hon'ble Supreme Court reported in **(2021) 3 SCC 560**, the relevant paragraph reads as follows: -

“26. Thus, in our view, the High Court was correct in holding that Section 89 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



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conclusion, and hold that Section 89 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 1 herein would be entitled to refund of court fee.”

4. Therefore, considering the said proposition, if the judicial settlement made between the parties before the National Company Law Tribunal, the plaintiff / petitioner herein is entitled for the refund of the Court fee. Therefore, the trial Judge is directed to refund the Court fee within two weeks from the receipt of this order.

5. In the result, the Civil Revision Petition is allowed. No costs.

20.12.2023

Index :Yes/No
Neutral Citation :Yes/No
AT

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To
The Commercial Court (District Judge Cadre), Coimbatore.



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T.V.THAMILSELVI, J.

AT

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