



S.A.No.871 of 2018
and S.A.No.170 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2023

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

S.A.No.871 of 2018
and S.A.No.170 of 2019
and C.M.P.No.23293 of 2018

S.A.No.871 of 2018:

V.Thoorayan

... Appellant

vs.

1.N.Krishnan

2.M/s.Haridoss & Associates,
Represented by its Proprietor
Having office at No.52, B/9,
T.M.Maistry Street, Thiruvannamiyur,
Chennai-41.

... Respondents

PRAYER: Second Appeal is filed under Section 100 of Civil Procedure Code, to set aside the Judgment and Decree dated 04.07.2018 in A.S.No.213 of 2017 on the file of the XVIII Addl. City Civil Court, Chennai-104 and confirm the Judgment and Decree dated 10.07.2017 made in O.S.No.3657 of 2012 on the file of I-Asst. Judge, City Civil Court, Chennai.

For Appellant : Mr.Karunagara Kulasekaran.T.

For Respondents : Mr.R.Thirugnanam



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S.A.No.170 of 2019:

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N.Krishnan

... Appellant

vs.

V.Thoorayan

... Respondent

PRAYER: Second Appeal is filed under Section 100 of Civil Procedure Code, to set aside the Judgment and Decree dated 04.07.2018 in A.S.No.214 of 2017 on the file of the XVIII Additional City Civil Court, Chennai confirming the Judgment and Decree dated 10.07.2017 made in O.S.No.4842 of 2014 on the file of I Assistant City Civil Court, Chennai.

For Appellant : Mr.R.Thirugnanam

For Respondent : Mr.T.K.Kulasekaran alias
T.Karunagara Kulasekaran

COMMON JUDGEMENT

The learned counsel appearing for the appellant and respondents filed a Joint Memo stating that appellant in S.A.No.871 of 2018 namely V.Thoorayan paid a sum of Rs.3,62,000/- by way of Demand Draft to the 1st respondent-N.Krishnan. The 1st respondent-N.Krishnan received the said payment in full and final settlement of claim against the appellant in S.A.No.871 of 2018. It is further stated in the Joint Memo that 1st respondent-N.Krishnan handed over the title documents of the appellant to him today and the same was also acknowledged by the appellant in



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S.A.No.871 of 2018.

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2. The 1st respondent also undertakes to execute a receipt in favour of appellant for having received the above said amount before the Sub-Registrar Office, Neelankarai within a period of three weeks from today. Hence, the subject matter of dispute in S.A.No.871 of 2018 is settled out of the Court. The second appeal in S.A.No.871 of 2018 is disposed of by recording the Joint Memo filed by both the parties dated 08.12.2023.

3. It is also stated in the Joint Memo filed by both the counsel that dispute in S.A.No.170 of 2019 is settled out of Court and the same may be dismissed by recording the same. Hence, S.A.No.170 of 2019 is dismissed as settled out of Court.

4. Since both the second appeals are disposed of by recording the settlement arrived at between the parties, as per the ratio 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, the



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appellants are entitled to refund of the Court fee.

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5. The Hon'ble Apex Court in the above mentioned case observed 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 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



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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 appellants are entitled to refund of the Court fee affixed by them in the memorandum of second appeal. Consequently, the connected civil miscellaneous petition is closed.

6. The Joint Memo filed by parties dated 08.12.2023 shall form part of the decree. In the facts and circumstances of the case, there shall be no order as to costs.

08.12.2023

Index : Yes/No

Speaking order : Yes/No

Neutral Citation : Yes/No

dm

To

1.The XVIII Addl. City Civil Court,
Chennai-104.

2.The I-Asst. Judge, City Civil Court,
Chennai.



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S.SOUNTHAR, J.

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