



A.S.(MD)No.127 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 31.08.2023

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

A.S(MD)No.127 of 2021
and
C.M.P(MD)No.4290 of 2021

A.Ravi : Appellant/Plaintiff

Vs.

1.Vasanthi

2.S.Thirupathi

3.S.Saravanan

4.N.Dhanalakshmi

5.G.Devika

A.Vijayarani (died)

6.B.Nagalakshmi : Respondents/Defendants

PRAYER:- Appeal Suit filed under Section 96 of Civil Procedure Code, to set aside the judgment and decree dated 19.12.2019 made in O.S.No.9 of 2013 on the file of the Principal District Court, Pudukkottai.

For Appellant : Mr.G.Sridharan

For Respondents : No Appearance



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J U D G M E N T

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The Appeal Suit is directed against the judgment and decree, dated 19.12.2019 in O.S.No.9 of 2013 on the file of the file of the Principal District Court, Pudukkottai.

2. When the matter is taken up for hearing today (31.08.2023), there was no representation for the respondents. The learned counsel for the appellant has filed an affidavit sworn by the sole appellant, wherein it has been stated that the appellant, respondents 1 to 3, 5 and 6 and the legal representatives of the fourth respondent have amicably compromised and settled the matter out of the Court between themselves; that the compromise arrived by him in the above appeal is purely bonafide and he has whole heartedly agreed with the respondents in the settlement and that therefore, the appeal may be disposed of as withdrawn and settled out of Court. The affidavit filed by the appellant is recorded.

3. At this juncture, the learned counsel for the appellant would submit that he is entitled to get the refund of Court fee and relied on the decision of the Hon'ble Division Bench of this Court in A.S(MD)No.28 of 2014, dated 27.07.2023, wherein this Court has relied on the decision of Hon'ble Supreme



Court in the case of the ***High Court of Judicature at Madras rep.by its Registrar General Vs. M.C.Subramaniam and others*** reported in **2021 3 SCC**

560, wherein the Hon'ble Apex Court has specifically held 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 and the relevant passage is extracted hereunder :

“19. 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 have 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 fee, 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 (supra), parties who have agreed to settle 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 incentivize the methods of out of court settlement stated in Section 89, CPC and afford step-brotherly treatment to other methods availed of by the parties.

Admittedly, there may be situations wherein the parties have after the course of a long-drawn trial, or multiple frivolous litigations, approached the Court seeking refund of court fees in the guise of having settled their disputes. In such cases, the Court may, having regard to the previous conduct of the parties and the principles of equity, refuse to grant relief under the relevant rules pertaining to court fees. However, we do not find the present case as being of such nature.

20. Thus, even though a strict construction of the terms of Section 89, CPC and 69-A of the 1955 Act may not encompass such private negotiations and settlements between the parties, we emphasize that the participants in such settlements will be entitled to the same benefits as those who have been referred to explore alternate dispute settlement methods under Section 89, CPC. Indeed, we find it puzzling that the Petitioner should be so vehemently opposed to granting such benefit. Though the Registry/State Government will be losing a one-time court fee in the short term, they will be saved the expense and opportunity cost of managing an endless cycle of litigation in the long term. It is therefore in their own interest to allow the Respondent No. 1's claim.

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,



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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."

4. Since the parties herein have amicably settled the matter, applying the above decision of the Hon'ble Supreme Court, the appellant is entitled to get the refund of Court fee.

5. In the view of the above, the appeal suit is dismissed as withdrawn as the matter was settled between the parties out of Court. Registry is directed to refund the Court fee within a week from the date of receipt of the request. No costs. Consequently, connected miscellaneous petition is closed.

31.08.2023

NCC : Yes : No
Index : Yes : No
Internet : Yes : No
das



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To

- 1.The Principal District Court, Pudukkottai.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

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