



O.S.A.No,171 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

O.S.A.No,171 of 2021

&

C.M.P.Nos.7840 of 2021 and 2285 of 2023

in

O.S.A.No,171 of 2021

Mrs.J.Indirani

... Appellant

Vs.

1.G.Subba Reddy

2. Mrs.P.Rajeswari

... Respondents

Original Side Appeal filed under Order XXXVI Rule 1 of Original Side Rules read with Clause 15 of the Letters Patent to set aside the judgment and final decree dated 26.06.2019 made in Application No.4921 of 2017 in C.S.No.849 of 2013.

For Appellant : Mr.Kandhan Duraisami

For Respondents : Mr.S.Santhosh Kumar for R1
Mr.K.Naveen Dev
for Mr.Sivapandi for R2

Page Nos.1/6



O.S.A.No,171 of 2021

J U D G M E N T

WEB COPY

[Order of the Court was made by M.SUNDAR, J.,]

Captioned matters are listed under the cause list caption 'FOR REPORTING SETTLEMENT'.

2. Mr. Kandhan Duraisami, learned counsel for appellant (Mrs.J.Indirani), Mr.S.Santhosh Kumar, counsel on record for R1 (Mr.G.Subba Reddy) and Mr.K.Naveen Dev, learned counsel representing the counsel on record for R2 (Mrs.P.Rajeswari) are before us.

3. All the aforementioned learned counsel submit in unison in one voice that the captioned matter has since been settled out of Court, saying so, learned counsel for appellant sought leave of this Court qua withdrawal of the captioned OSA and CMP No.7840 of 2021 and likewise, counsel on record for R1 sought withdrawal of C.M.P.No.2285 of 2023 (vacate stay petition). Respective learned counsel have made endorsements in the case file and scanned reproduction of the same are as follows:



O.S.No.171 of 2021

OSA No.171 of 2021

C.M.P.No.7840 of 2021

WEB COPY

The parties have settled
this case out of Court.
The same may be
Recorded and the
Court Fees may be
Refunded. OSA 171/21
may be withdrawn.


Kanchan
Duraisami
Counsel for Appellant
16/7/24

The parties have settled
this case out of Court.
The Appellant may be
permitted to withdraw
the C.M.P.No 7840/21


Kanchan
Duraisami
Counsel for
Appellant
16/7/24

C.M.P.No.2285 of 2023

Considering the fact that
the Appellant 1st and Respondent
have conveyed their respective
views in favour of the
1st Respondent and the
matter is amicably settled,
I may be permitted to
withdraw C.M.P. 2285/23.


S. SANATHOSH KUMAR
COUNSEL FOR 1st Respondent
16/7/2024



O.S.A.No,171 of 2021

4. Adverting to Sections 69 and 69-A of 'Tamil Nadu Court Fees and Suits Valuation Act, 1955 [Act No. XIV of 1955]' {hereinafter shall be referred to as 'Tamil Nadu Court Fees Act' for the sake of convenience and clarity} and **M.C.Subramaniam** case [**High Court of Judicature at Madras Vs. M.C.Subramaniam** reported in **2021 SCC OnLine SC 109 : (2021) 3 SCC 560**], learned counsel for appellant requested for refund of entire Court fee. To be noted, **M.C.Subramaniam** principle is to the effect that Section 89 of 'the Code of Civil Procedure, 1908 (Central Act V of 1908)' [hereinafter 'CPC' for the sake of brevity] and Sections 69 and 69-A of Tamil Nadu Court Fees Act have to be interpreted liberally and therefore, in all methods of settlement including out of Court settlement, the parties would be entitled to refund of court fee qua Sections 69 and 69-A of Tamil Nadu Court Fees Act.

5. Applying **M.C.Subramaniam** principle, we make the following order:

i) Captioned OSA and CMP No.7840 of 2021 thereat are disposed of as closed / withdrawn having been settled out of Court as between the parties;



O.S.A.No.171 of 2021

ii) C.M.P.No.2285 of 2023 is disposed of as withdrawn

as a consequence qua withdrawal of main OSA and settlement out of Court;

iii) Registry shall refund entire Court fee paid by the appellant qua captioned OSA subject to statutory deductions and subject to counsel on record for appellant adhering to the requisite procedure;

iv) Refund of court fees shall be by way of an instrument drawn in favour of the appellant Mrs.J.Indirani. The exercise of refund shall be completed as expeditiously as the business of Registry would permit but in any event within six weeks from today i.e., by 27.08.2024.

Captioned OSA and captioned CMPs are disposed of as closed / withdrawn having been settled out of Court in the aforesaid manner. There shall be no order as to costs.

(M.S.,J.) (K.G.T.,J.)
16.07.2024

Index : Yes / No
Neutral Citation : Yes / No
gpa

Page Nos.5/6



WEB COPY



O.S.A.No,171 of 2021

M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,

gpa

O.S.A.No,171 of 2021

16.07.2024