



A.S. No.437 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2024

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**  
and  
THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

**A.S. No.437 of 2021**  
and  
**C.M.P. No.18422 of 2021 in A.S. No.437 of 2021**

Durai Dhandaapaani

.. Appellant

Vs.

P.Thiruvadivel

.. Respondent

Appeal Suit filed under Section 96 of C.P.C. against the judgment and decree dated 06.07.2021 passed in O.S. No.1 of 2018 on the file of the Principal District Judge, Tiruppur.

For Appellant : Mr.R.Bharath Kumar

For Respondent : No appearance

### **JUDGMENT**

(Judgment of the Court was delivered by **M.Sundar, J.**)

Matter mentioned at half past ten.

2. Captioned matter is listed under the cause list caption 'FOR WITHDRAWAL' at the instance of learned counsel on record for



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appellant in the main 'appeal suit' (hereinafter 'AS' for the sake of brevity) and for the petitioner in the captioned 'Civil Miscellaneous Petition' (hereinafter 'CMP' for the sake of brevity).

3. Mr.R.Bharath Kumar, learned counsel on record for appellant in AS and petitioner in CMP who is before us has placed before this Bench a letter dated 23.03.2024 from the appellant/petitioner Mr.Durai Dhandaapaani, Son of Mr.P.Duraisamy and a scanned reproduction of the same is as follows:

23/3/2024  
T. J. S. S. S.

அனுப்புனர்  
துரை தண்டபாணி  
ந.பெ. துரைசாமி  
எண் 1/270, தொச்சிப்பாளையம்  
பெருத்தொழுவ அஞ்சல்  
பொலிக்கலப்பாளையம் வூடு  
திருப்பூர்

பெறுநர்  
திரு. உபரத்தமார்  
வழக்கறிஞர்  
எண் 123/255, ஹுசைனமன்கில்,  
2வது தளம், அங்கபொன்றாயக்கனத்தெரு,  
பாரிஸ் கார்னர்,  
சென்னை - 600 001

பொருள் : வழக்கை வாபஸ் பெறுவது தொடர்பாக.  
பார்வை : A.S.No.437/2021 - துரை தண்டபாணி - எதிர் - திருவடிவேல்  
ஜபா வணக்கம்.

பார்வையில் காணும் வழக்கானது என்னைத் திருவடிவேல்  
அவர்களுக்கு எதிராக மாண்புமிகு சென்னை உயர்த்திமன்றத்தில்  
தொடுக்கப்பட்டிருந்தது தற்போது நானும் திருவடிவேல் அவர்களும்  
சமாதானமாக போவதென்று முடிவு செய்து எங்களுக்குள் உள்ள  
பிரச்சனையை பேசி தீர்த்துக் கொண்டோம் ஆக மேற்கொள்ள  
வழக்கை தங்கள் மேற்கொண்டு நடத்த வேண்டாம் என்றும் வாபஸ்  
பெறாமலும் கேட்டுக் கொள்கிறேன்.

நன்றி

திருவடிவேல்  
23/3/2024  
துரை தண்டபாணி



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4. Mr.R.Bharath Kumar, learned counsel on record for appellant/petitioner has made endorsements in the case file and scanned reproduction of the same are as follows:

11  
The A.S.No 437/2021  
is settled out of  
Court and hence  
the same may be  
dismissed as  
settled  
out of  
Court  
and Court  
fee paid in  
A.S may be ordered  
to be refunded  
R.Bharath Kumar  
Counsel for Appellant  
R.Bharath Kumar  
26/03/2024  
9444402121

The CMP is not  
pressed in view of  
A.S is settled out  
Court.  
R.Bharath Kumar  
Counsel for Appellant  
R.Bharath Kumar  
9444402121  
26/03/2024



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5. Mr.R.Bharath Kumar, learned counsel for appellant requests for refund of court fee by referring to Section 69-A of 'Tamil Nadu Court-Fees and Suits Valuation Act, 1955 (Tamil Nadu Act XIV of 1955)' (hereinafter 'TN Court Fees Act' for the sake of brevity) and judgment of Hon'ble Supreme Court in ***M.C.Subramaniam's*** case (***The High Court of Judicature at Madras rep. By its Registrar General Vs. M.C.Subramaniam and Others***) being order dated 17.02.2021 made in S.L.P. (Civil) Nos.3063-3064 of 2021 (Diary No.3869-2021). Learned counsel draws our attention to paragraphs 21 and 23 of *M.C.Subramaniam's* case, which read as follows:

*'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*



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*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.*

*23. The petitioners are directed to refund the court fee deposited by Respondent No.1 for Appeal Suits Nos.876 of 2012 and 566 of 2013, within a period of six weeks.'*

6. In the light of Section 69-A of TN Court Fees Act and *M.C.Subramaniam's* principle laid down by Hon'ble Supreme Court, the appellant is entitled to refund of court fee. Registry to process refund of court fee to the appellant as per the prescribed procedure subject to standard deductions if applicable and refund of court fee shall be by way of an instrument drawn in favour of the appellant Mr.Durai Dhandaapaani, Son of Mr.P.Duraisamy. This process shall be completed by the Registry as expeditiously as the business of the Registry would permit but in any event on or before 30.04.2024 subject of course to learned counsel for appellant/petitioner and appellant/petitioner complying with all requirements regarding procedure for refund of court fee.



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7. In the light of the narrative thus far, captioned AS is dismissed as settled out of Court and captioned CMP is disposed of as closed/not pressed. There shall be no order as to costs.

**(M.S.J.) (K.G.T.J.)**  
**26.03.2024**

Index:Yes/No  
Neutral Citation: Yes/No  
mmi

To

The Principal District Judge,  
Tiruppur.



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

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**26.03.2024**