



\$~5

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(OS) 608/2023 & I.A. 19331/2023**

SMT SONIA JAIN

..... Plaintiff

Through: Mr. Onkar Roy and Mr. Atinder
Kumar, Advocates.

versus

ARUN KUMAR GAUTAM & ANR.

..... Defendants

Through: Mr. Harshit Jain, Advocate for D-1
with D-1 in person.
D2 in-person.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER
29.02.2024

%

The parties state that they have settled their *inter-se* disputes through mediation conducted under the aegis of the Delhi High Court Mediation & Conciliation Centre.

2. Settlement Agreement dated 31.01.2024 is on record.
3. Briefly, under the settlement, contesting defendant No. 1/Arun Kumar Gautam was to hand-over vacant, peaceful, physical possession of property bearing No. R-287, Greater Kailash Part-I, New Delhi to the plaintiff in consideration of receiving Rs.50 lacs from the plaintiff, of which Rs.45 lacs already stands paid.
4. The plaintiff and defendant No. 1 are present in court; and they have been identified by their respective counsel.



5. Defendant No.1 acknowledges the receipt of Rs.45 lacs. Under the settlement, the balance sum of Rs. 5 lacs is to be paid to defendant No.1 at the time he hands-over vacant, peaceful, physical possession of the subject property to the plaintiff. Defendant No.1 says that he will do so by Saturday *i.e.* 02.03.2024 by 04:00 p.m., on which day he, along with his family members, would vacate and hand-over physical possession of the subject property to the plaintiff. *Simultaneously* with handing-over of possession, the plaintiff says she will pay the balance sum of Rs.5 lacs to defendant No. 1, against written acknowledgement of receipt of the money.
6. The parties accordingly request that the suit be decreed in terms of the settlement agreement.
7. Upon a perusal of the terms of settlement comprised in Settlement Agreement dated 31.01.2024, this court is satisfied that the parties have resolved their *inter-se* disputes lawfully; and that therefore, there is no reason why the terms of settlement should not be accepted.
8. Accordingly, the terms of settlement are accepted; the suit is decreed in terms of Settlement Agreement dated 31.01.2024, which shall form part of the decree; and the parties are directed to remain bound by their respective obligations under the settlement.
9. Decree sheet be drawn-up within 02 weeks.
10. The suit is disposed-of in the above terms.
11. Pending applications, if any, also stand disposed-of.
12. At this stage, Mr. Onkar Roy, learned counsel appearing for the plaintiff prays, that since the matter has been settled at an early stage, when the defendants have not even filed their written statements, the



entire court fee may be refunded, notwithstanding the provision of section 16A of the Court-fees Act, 1870 as applicable to Delhi.

13. The record bears-out the submission.
14. In the context of that prayer, it is noticed that in ***High Court of Judicature at Madras vs. M.C. Subramaniam & Ors.***¹, the Supreme Court has opined, though in the context of the Tamil Nadu Court-fees and Suits Valuation Act 1955, that on a broad and purposive construction of section 89 of the CPC, the provision for refund of the *entire* court fee shall also extend to all methods of out-of-court dispute settlement between parties and shall not be limited only to a settlement arrived at through mediation.
15. It is also noticed that in order dated 16.08.2023 made by a Division Bench of this court in W.P.(C) No. 10235/2022 titled ***Praveen Kumar Agarwal vs. Union of India & Anr.***, the Division Bench has recorded a statement made by learned counsel appearing for the Government of NCT of Delhi ('GNCTD'), that in terms of a communication dated 14.08.2023 received from GNCTD, the department was contemplating necessary steps for repeal of Section 16A of the Court-fees Act, 1870 as applicable to Delhi, which permits refund of only half the amount of court-fee paid.
16. It is seen, that as recorded in the Division Bench order, the decision of the GNCTD proceeded on their own admission and perception that section 16A was creating an *arbitrary distinction* between persons who seek refund of court fee under section 16 and those who seek refund under section 16A of the Court-fees Act, 1870. By the said

¹ (2021) 3 SCC 560



order, the Division Bench had disposed-of that public interest litigation, with the direction to the GNCTD to take appropriate consequential steps *within a period of 04 months* from that date *i.e.* 16.08.2023.

17. Regardless of whether or not any steps to that effect have been taken by the GNCTD so far, in view of the observations of the Supreme Court and of a Division Bench of this court as cited above, this court is persuaded to accept the plaintiff's prayer; and it is accordingly directed that the *entire* amount of court-fee paid on the plaint be refunded to the plaintiff.
18. The Registry is directed to draw-up the requisite certificate for refund of the entire court fee within 02 weeks from today.

ANUP JAIRAM BHAMBHANI, J

FEBRUARY 29, 2024/ak