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C.S.No.68 of.



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.03.2025

CORAM :

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

C.S.No.68 of 2024
& O.A.Nos.231 & 230 of 2024

- 1.D.Peter Chakravarthy
- 2.Johnson Anand Kumar Daniel alias Daniel Johnson Anand Kumar
- 3.Samuel Vasantha Kumar Daniel alias Vasantha Kumar

(Plaintiffs 2 & 3 are represented by their
Power Agent D.Peter Chakravarthy
Residing at 1/1, Lettangs Road, Vepery,
Chennai – 600 007)

- 4.Malathy Premkumar
- 5.Philip Dinakaran David alias Philip Dinakaran
- 6.Premkumar Vijay David alias David Vijayakumar ... Plaintiffs

vs.

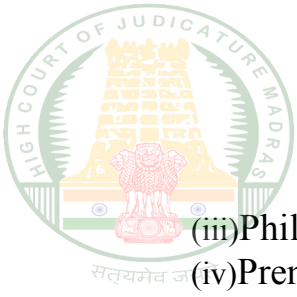
- 1.Michael Daniel
- 2.Grace Ahalya alias Grace Mary Ahalya ... Defendants

Prayer : Civil Suit filed under Order IV Rule 1 of Madras High Court Original
Side Rules read with Order VII Rule 1 of CPC to pass decree and Judgment as

A. Declaring the plaintiffs 2, 3, 5 & 6 namely

(i)Mr.Johnson Anand Kumar Daniel alias Daniel Johnson Anand
Kumar (2nd plaintiff herein)

(ii) Samuel Vasantha Kumar Daniel alias Vasantha Kumar (3rd



plaintiff herein)

(iii) Philip Dinakaran David alias Philip Dinakaran (5th plaintiff herein)

(iv) Premkumar Vijay David alias David Vijayakumar (6th plaintiff herein)

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B. Granting a permanent injunction restraining the defendants, their men, agents and servants from in any way creating any further encumbrance over the suit property.

C. Granting permanent injunction restraining the defendants their men, agents and servant or any other person who claim any right through the above defendants, from interfering with the peaceful possession of the suit schedule property of the plaintiffs;

D. To pay the cost of the suit;

E. Granting such further or other reliefs, as this Court may deem fit and proper in the circumstances.

For Plaintiff : Mr.S.S.Rajesh

For defendants : Mr.G.Vasudevan for D1

: Mr.Hem Kumar for D2
for M/s.Ganesh and Ganesh



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J U D G M E N T

This suit has been filed for declaration and permanent injunction against the defendants.

2. A Mediation Report had been filed by the parties jointly indicating that the parties have settled the dispute among themselves and they entered into a Memorandum of Understanding and the same has been acknowledged by the learned counsel appearing for both the parties.

3. In view of the understanding that had been arrived at between the parties on the terms of Memorandum of Understanding, the suit is disposed of in the terms of Memorandum of Understanding. The said terms of Memorandum of Understanding is also annexed to this judgment.

4. The learned counsel appearing for the plaintiff seeks refund of Court fee, however would submit that in view of the judgment of the Hon'ble Apex Court in SLP.No.720 of 2023 there may be an impediment for this Court to order refund of Court fee.



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5.It is to be noted that the Hon'ble Apex Court had dealt with the case arising from Punjab & Haryana High Court where Court Fees Act, 1870 was applicable which contains provisions particularly Section 16 of the Act which only provides refund of court fee when the matter is settled between the parties under the provision of Section 89 of CPC. Whereas, the Tamil Nadu Court Fees and Suit Valuation Act, 1955 envisages refund of court fee when the parties have settled the disputes before the trial commences on the merits of the claim. For better appreciation, the relevant provisions of both Acts is extracted hereunder.

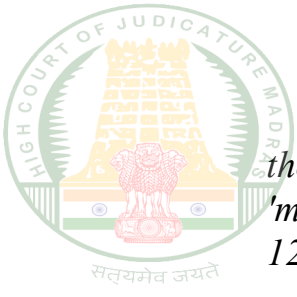
The Court Fees Act, 1870

“... 16. Refund of fee.—Where the court refers the parties to the suit to any one of the mode of settlement of dispute referred to in section 89 of the Code of Civil Procedure, 1908 (5 of 1908), the plaintiff shall be entitled to a certificate from the court authorizing him to receive back from the collector, the full amount of the fee paid in respect of such plaint...”

The Tamil Nadu Court Fees and Suit Valuation Act, 1955

“...Section 69 - Refund on settlement before hearing:-

Whenever any suit is dismissed as settled out of Court before any evidence has been recorded on the merits of the claim, (full amount) of all fees paid in respect of the claim or claims in the suit shall be ordered by the Court to be refunded to the parties by whom



the same have been respectively paid. Explanation.-- The expression 'merits of the claim' shall have the meaning assigned to it in section 12..."

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6. Further, the said Act, 1955 also provides *para materia* provisions of Section 69A to Section 16 of the Act 1870. In such view of the matter, this court is of the view that the plaintiff would be entitled for refund of court fee as envisaged under Section 69 of the Tamil Nadu Court Fees and Suit Valuation Act, 1955. Hence, the registry is directed to refund the court fee paid by the plaintiff. However, there shall be no order as to costs. Consequently, connected miscellaneous applications are closed.

07.03.2025

Index : Yes / No
Internet : Yes / No
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