



A.S.(MD)No.114 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 17.03.2026

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MS.JUSTICE R.POORNIMA**

**A.S.(MD)No.114 of 2023
and
C.M.P.(MD)No.6965 of 2023**

R.Annakamu

... Appellant

Vs.

1.K.Ramamurthy

2.R.Selvaraj

3.S.Viji @ Vijayanagarathinam

... Respondents

Prayer : Appeal Suit filed under Order 41 Rules 1 and 2 r/w. Section 96 of Civil Procedure Code, to allow this appeal by setting aside the judgment and decree dated 23-12-2021 made in O.S.No.20 of 2018 on the file of the Additional District Judge (Fast Track), Theni.

For Appellant : Mr.R.Suriyanarayanan

For Respondents : Mr.K.Prabhakaran,
For M/s.KBS LawAssociates for R1
No appearance for R2 & R3



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JUDGMENT

(Judgment of the Court was delivered by G.R.Swaminathan, J.)

This appeal is listed under the caption “for withdrawal”.

2.The third defendant in O.S.No.20 of 2018 on the file of the Additional District Judge (FTC), Theni, is the appellant. The appeal arises out of a suit for specific performance. The appellant wants to withdraw the appeal. It is well settled that no litigant can be restrained from abandoning his cause of action. Therefore, there cannot be any difficulty in permitting the appellant to withdraw the appeal. But the question that calls for consideration is whether the appellant is entitled to refund of the court fee.

3.The learned counsel appearing for the appellant relying on the decision rendered in ***S.L.P.(Civil)Nos.3063 and 3064 of 2021 (The High Court of Judicature at Madras, Represented by its Registrar General Vs. M.C.Subramaniam and Others)*** on 17.02.2021 contended that even



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an appellant withdrawing his appeal is entitled to refund of the court-fee paid by him. Paragraph 19 of the said judgment reads as follows:-

“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.



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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.”

4.The Honourable Supreme Court had held that where the matter has been amicably settled between the parties and as a result, the appeal itself gets withdrawn, the appellant would be entitled to refund of the court-fee. In other words, withdrawal of the appeal should follow such settlement of the dispute between the parties to the appeal. The learned counsel for the appellant may not therefore be right in claiming that court-fee has to be refunded following withdrawal of the appeal. We, therefore, wanted to confirm if the appellant and the plaintiff had amicably resolved the issues between themselves. The appellant's counsel answered in the affirmative and to that effect filed memo dated 17.03.2026. But this memo has been signed by the appellant and his



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counsel only. The signature of the plaintiff has not been obtained. The explanation of the appellant is that on account of illness, the plaintiff's signature could not be obtained. However, the plaintiff's counsel confirmed that the matter has been amicably settled. He also affixed his signature in our presence.

5. We are satisfied that the case on hand falls within the ratio laid down in the aforesaid judgment of the Honourable Supreme Court. Hence, even while permitting the appellant to withdraw his appeal, we also direct the Registry to refund the court-fee paid by the appellant in this appeal. This Appeal is dismissed as withdrawn. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.) & (R.P. J.)
17.03.2026

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:

The Additional District Court (Fast Track),
Theni.

Copy to:

The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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