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IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE
HON'BLE SHRI JUSTICE DWARKA DHISH BANSAL

ON THE 20th OF SEPTEMBER, 2022

FIRST APPEAL No. 222 of 2015

BETWEEN:-

DAYARAM

.....APPELLANT

(BY SHRI S.D. GUPTA-ADVOCATE)

AND

SMT. LAXMI AGRAWAL

.....RESPONDENTS

(BY SHRI R.N. AGNIHOTRI-ADVOCATE)

This appeal coming on for hearing this day, the court passed the following:

ORDER

Heard on I.A.No.11120/2022.

2. Learned counsel for the parties submit that after execution of impugned decree, parties have settled their dispute outside the Court and in pursuance of which, the appellant/defendant wants to withdraw his first appeal. In such circumstances, he prays that the court fee of Rs.52,750/- paid by him in the first appeal be refunded to the appellant, regarding which the respondent has no objection.

3. Now the question arises as to whether this Court, in the aforesaid circumstances, can pass order for refund of court fees as provided under Section 16 of the Court Fees Act, 1870. Section 16 of the Court Fees Act, 1870 states as under :-

"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 the plaintiff shall be entitled to a certificate from the court authorising him to receive back from the collector, the full amount of the fee paid in respect of such plaint."

4. In the case of [A. Sreeramaiah v. South Indian Bank Ltd. ILR 2006 Kar 4032](#), Division Bench of the Karnataka High Court, held as follows:

"6. Considering the object behind the [Amendment Act, 1999](#) inserting section 89 of CPC and also the insertion of [Section 16](#), it is clear that the object of providing of refund of Full Court Fees, is to encourage the settlement of the disputes in terms of section 89 of CPC. In this case, the parties agreed for settlement in terms suggested by the Court and accordingly, they have settled their dispute outside the Court. The judicial settlement is also one of the alternative method of settlement of the disputes. As such, in our considered view, in any settlement arrived in terms of section 89 of CPC including the judicial settlements at the intervention and on terms suggested by the Court, the appellant is entitled for refund of Full Court Fees, as otherwise, it would be meaningless if the provisions of [section 16](#) are not applied for settlement of dispute by the parties under [section 89](#). [Section 89](#) does provide for settlement of dispute at any stage of the proceeding, whether it is by way of method referred to therein or by judicial settlement as contemplated under [section 89](#) sub-section (1). As such, we are of the opinion that if the parties come forward to settle their dispute before the Court itself, they should not be denied of refund of Full Court Fees on the ground that they have not settled the dispute before any of the four methods provided under section 89 of CPC. The object behind [section 89](#) is to encourage the parties to arrive at settlement and if that object is sought to be achieved by means of referring the matter to any of the four methods mentioned in [section 89](#), then even the settlement arrived at the earliest stage before the Court would also be one of the method provided under [section 89](#) sub-section (1). Hence, we feel it as just and appropriate to order for full refund of Court Fees in the case of parties settling their dispute before the Court as well as before any of the Forum mentioned under Section 89 of the CPC. No party should be discriminated in the matter of refund of Court Fees mainly on the ground that they have settled the dispute at the earliest stage before the Court without recourse to any of the methods mentioned under section 89 of the CPC. Hence, appellant is entitled for refund of Full Court Fees."

5. Aforesaid view has been upheld by the Karnataka High Court, in [Kamamma v. Honnali Taluk Agricultural Produce Co-operative Marketing Society Ltd. 2010 \(4\) KCCR 3211 = AIR 2010 KarR 279](#) where, again referring to provisions of Section 89 of CPC and [Section 16](#) of the Act, it was observed as under:

"7. Whether the parties to a suit or appeal or any other proceeding get their dispute settled amicably through Arbitration or meditation or conciliation or in the Lok Adalat, by invoking provisions of [Section 89](#), C.P.C, or they get the same settled between themselves without the intervention of any Arbitrator/ Mediator/ Conciliators or in Lok Adalat etc., and without invoking the provisions of [S. 89](#), Civil Procedure Code, the fact remains that they get their dispute settled without the intervention of the court. If they get their dispute settled by invoking [S. 89](#), C.P.C, in that event the State may have to incur some expenditure but, if they get their dispute settled between themselves without the intervention of the Court or anyone else, such as arbitrator/mediator etc., the State would not be incurring any expenditure. This being so, I am of the considered opinion that whether the parties to a litigation get their dispute settled by invoking [Section 89](#), C.P.C or they get the same settled between themselves without invoking [S. 89](#), Civil Procedure Code, the party paying Court Fees in respect thereof should be entitled to the refund of full Court Fees as provided under [Section 16](#) of the Court Fees Act, 1870. Therefore, the contention of the learned Government Pleader that the principles laid down by the Division Bench of this Court in the said case cannot be made applicable to the facts of the present case does not deserve acceptance."

6. In the case of **PRADEEP SONAWAT VERSUS SATISH PRAKASH @ SATISH CHANDRA 2015(2) Civil Court Cases 52 the Punjab and Haryana High Court held as under :-**

16. Going a step further, it is felt that whether the compromise is with the persuasion of the Court or amongst the parties by themselves in terms of Section 89 CPC or otherwise, invocation of provision of Section 16 of the Act should be made in all cases so that settlements by way of alternative dispute resolution mechanism are encouraged.

17. Keeping in view the totality of the facts, merely because the matter has not been settled in Lok Adalat, as has been observed by the lower Court while dismissing the application of the plaintiff-petitioner, invocation to Section 16 of the Act should not have been refused.

7. In view of the aforesaid, I am of the considered opinion that even if the matter is settled by the parties outside the Court without invoking the provisions of section 89 CPC, the appellant while withdrawing his first appeal, is entitled to the refund of full Court fees as provided under section 16 of the Court Fees Act, 1870.

8. In view of the aforesaid discussion, Registry of this Court is directed to issue certificate regarding refund of Court fees of Rs.52,750/- authorising the appellant-Dayaram to receive back the full amount of the court fee paid in respect of first appeal, from the Collector.

9. With the aforesaid observation, this appeal is **disposed of**.

(DWARKA DHISH BANSAL)
JUDGE