

Parvathi and anr. Vs. Punjab National Bank, Rep. by Its Branch Manager, K.K. Nagar Branch and ors.

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Court : Chennai

Decided On : Sep-12-2005

Reported in : (2006)1MLJ173

Judge : P.K. Misra and ;N. Kannadasan, JJ.

Acts : [Legal Services Authorities Act, 1987](#) - Sections 20(1) and 21; ;[Court Fees Act, 1870](#) - Sections 13, 14 and 15; ;Tamil Nadu Court Fees and Suit Valuation Act, 1955 - Sections 69; ;Madras High Court Fees Rules, 1956; ;Code of Civil Procedure (CPC) , 1959 - Sections 351; ;Code of Civil Procedure (CPC) , 1859 - Sections 351; ;[Code of Civil Procedure \(CPC\) , 1908](#) - Sections 151

Appeal No. : C.M.P. No. 21215 of 2004 in O.S.A. No. 179 of 2004

Appellant : Parvathi and anr.

Respondent : Punjab National Bank, Rep. by Its Branch Manager, K.K. Nagar Branch and ors.

Advocate for Def. : S. Venkateswaran, Adv. for Respondent No. 1 and ;N.R. Chandran, Adv. General

Advocate for Pet/Ap. : M. Ravindran, Senior Counsel for ;G.M. Mani Associates

Disposition : Petition allowed

Judgement :

ORDER

P.K. Misra, J.

1. The question in the present application relates to refund of Court-fees in the appeal, which was amicably settled between the parties before the Lok Adalat.

2. O.S.A. No. 179 of 2004 was referred to Lok Adalat on 7.12.2004. After the disposal of the appeal in the above manner, the appellant filed C.M.P. No. 21215 of 2004 for refund of the Court fees of Rs. 15,300 paid on the memorandum of the grounds of the Original Side Appeal. When the matter came earlier, by order dated 17.1.2005, the Court passed an order:

'This matter may be listed before 'Lok Adalat' for passing necessary orders regarding refund of Court Fee'.

On 27.1.2005, the Lok Adaklat observed:

'Since the matter has already been settled before the Adalat, they are entitled to refund of Court fees under Section 21 of the Legal Services Authorities Act. The Appellants/petitioners are directed to produce this order to the Registrar and get refund of the Court fees'.

3. Thereafter, the Registry has raised objection regarding refund of Court fees on the ground that Section 21 of the [Legal Services Authorities Act, 1987](#) refers to refund of Court fee in the manner provided under the [Court Fees Act, 1870](#), which is a Central Act, whereas all the proceedings in Tamil Nadu are governed by Tamil Nadu Court Fees and Suit Valuation Act, 1955. It is further indicated in the Office Note that levy of Court fees on the Original Side of the High Court is governed by the Madras High Court Fees Rules of 1956 and for refund of Court fees the provisions of the Tamil Nadu Court fees and Suit Valuation Act alone would be applicable. Section 69 of the Tamil Nadu Court Fees and Suit Valuation Act, 1955 provides that when a suit is dismissed as settled out of Court, half the Court fees shall be refunded provided that no evidence is recorded on the merits of the claim

and when evidence is recorded on the merits of the case, the question of refund of Court fees does not arise under that Section. It is further indicated that there is no provision in the Tamil Nadu Court Fees and Suit Valuation Act for refund of Court fees when the Original Side Appeal is compromised and a decree is passed in terms of such compromise. It is therefore indicated that since the [Court Fees Act, 1870](#) is not applicable and only the Tamil Nadu Court Fees and Suit Valuation Act is applicable, there is no question of refund of Court fees. On the basis of such Office Note, the matter has been again placed before the Division Bench.

4. Since the question of refund of Court Fees is involved and in that sense the interest of the State is affected and since the question of interpretation of the Legal Services Authorities Act as well as various Court Fees Acts has arisen, we have issued notice to the learned Advocate General as well as the Government Pleader to render assistance in the matter. Accordingly, the learned Advocate General was present in Court and he has made his submissions.

5. To be fair to the learned Advocate General, it can be stated immediately that he has pointed out that steps are being taken to make necessary amendment and the matter can be considered at a later stage. Even otherwise on merit, the learned Advocate General has brought to our notice several decisions throwing some light on the aspect. We record our appreciation for the fair manner in which submission has been made by the learned Advocate General.

6. The [Legal Services Authorities Act, 1987](#) is an Act enacted by the Parliament. Section 21 of such Act is extracted hereunder:

21. Award of Lok Adalat.-- Every award of the Lok Adalat shall be deemed to be a decree of a Civil Court or, as the case may be, an order of any other Court and where a compromise or settlement has been arrived at, by a Lok Adalat in a case referred to it under Sub-section (1) of Section 20, the Court fee paid in such case shall be refunded in the manner provided under the [Court Fees Act, 1870](#) (7 of 1870).'

7. Section 13 of the Court Fees Act (Central Act) relates to refund of Court fee paid on memorandum of appeal and contemplates such refund when a suit is

remanded in appeal on any of the grounds mentioned in Section 351 of the Code of the Civil Procedure, 1959. Reference to Section 351 of the Code of Civil Procedure, 1859 obviously must be construed as reference to the present corresponding provisions in the Code of Civil Procedure, 1908 as amended from time to time. Section 13 not only contains a substantive provision regarding refund of the Court fee but also contains a procedural aspect under which the appellate Court is required to grant a certificate to the appellant authorising him to receive back the full amount of Court fee from the Collector. Similarly Sections 14 and 15 contain substantive law as well as procedural law relating to refund of Court fee, under certain contingencies.

8. What is sought to be emphasised by us is that the [Court Fees Act, 1870](#) contains substantive provision regarding refund of Court fee and the manner in which the Court fee is to be refunded. Sections 13, 14 and 15 clearly indicate that where a person is entitled to refund of the Court fee, a certificate to that effect is required to be issued by the Court. The question whether the person would be entitled to refund of the Court fee is a substantial law as contained in Sections 13, 14 and 15. The common procedural law contemplated in all such provisions is to the effect that if the Court is satisfied that the person is entitled to refund of Court fees, a certificate to that effect is required to be issued and thereafter the person would get refund from the Collector by producing such certificate.

9. Section 21 of the Legal Services Authorities Act contains the substantive provision regarding refund of Court fees in respect of the matters settled in Lok Adalat and the procedural aspect has been indicated by laying down that it 'shall be so refunded in the manner provided under the [Court Fees Act, 1870](#).' In other words, where a settlement has been arrived at before the Lok Adalat in a case referred to under Section 21, the Court fee paid is required to be refunded. For the aforesaid purpose, the Court is required to issue a certificate for refund of the Court fee. Such certificate is as contemplated in Sections 13, 14 and 15 of the [Court Fees Act, 1870](#). The fact that there is no provision in the Tamil Nadu Court Fees and Suit Valuation Act or Madras High Court Fees Rules regarding refund of Court fee in an appeal settled out of Court is of no consequence because such Court fee is refundable not because of any provision contained in the State Act or

the Rules or the [Court Fees Act, 1870](#), but because of the specific provision contained in Section 21 of the Legal Services Authorities Act.

10. As a matter of fact, it cannot be said that there is any conflict between the provisions contained in the Legal Services Authorities Act and the Tamil Nadu Court Fees and Suit Valuation Act or the Madras High Court Fees Rules, 1956. There is no specific provision contained in the State Act or the High Court Rules and the provision contained in the Legal Services Authorities Act can be construed as an additional provision and not a contradictory provision. In that sense, there is no real conflict between the provisions.

11. Even though the levy of Court fee other than the Court fee payable in Supreme Court is a matter coming within the State List, the provisions regarding refund of Court fee as contemplated under Section 21 of the [Legal Services Authorities Act, 1987](#) cannot be considered as directly impinging upon the State law. The main intention of the Legal Services Authorities Act is to encourage amicable settlement of disputes through the medium of Lok Adalats. In pith and substance the provision does not purport to be a law on payment of Court fees within the States. Reference to refund in the manner provided under the [Court Fees Act, 1870](#) is only a compendious and convenient manner of procedure to be adopted. However, it cannot be said that the provisions contained in Section 21 of the Act impinge in any manner upon any provision of the Tamil Nadu Court Fees and Suit Valuation Act.

12. In the above view of the matter, various decisions cited by the learned Advocate General, which indicate that in a given situation, under Section 151, C.P.C. jurisdiction can be exercised is not necessary to be decided and it is also not necessary to consider whether there is any conflict between the Division Bench decisions *J. Jayalakshmi and Ors. v. Vasavi Transport, Kulithalai*, rep. by its Managing Director and Messrs. P. Thiruvengada Mudaliar by Partner, P. Naragrathna Mudaliar and Ors. v. Syndicate Bank and Ors. 1996 LW 454 on the one hand and the Full Bench decision *The Official Receiver, Coimbatore v. S.A. Ramaswami Gounder and Ors.* 993 LW 468 on the other hand.

13. In such view of the matter, the objections raised by the Registry are untenable. The Registry is therefore directed to issue necessary certificate regarding refund of the Court fees. The C.M.P. is accordingly allowed.

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