

Karnataka High Court A. Sreeramaiah, S/O. J. Anjanappa vs The South Indian Bank Ltd. A ... on 27 September, 2006 Equivalent citations: ILR 2006 KAR 4032, 2007 (1) KarLJ 67 Author: S B Adi Bench: S Bannurmamath, S B Adi JUDGMENT Subhash B. Adi, J. Page 1134 1. The appellant is the first defendant and the respondent No. 1 is the plaintiff. The plaintiff had filed a suit for recovery of Rs. 8,11,582/-. The suit was decreed by judgment and decree dated 12.10.2004. When this matter came up for consideration before this Court, this Court after noticing the rival contentions, found that there was an element of possibility of settlement and suggested the terms of settlement to the parties. In the light of the suggestions made by this Court, the parties settled the matter out of full Court and reported the same. 2. In the light of settlement of the matter, learned Counsel appearing for the appellant submitted that the appellant is entitled for the refund of full court fees. He referred to Section 16 of the Court Fees Act, 1870 (Central Act) and submitted that any settlement arrived at, in terms of Section 89 of the Code of Civil Procedure 1908, party is entitled for refund of full court fees under Section 16 of the Court Fees Act 1870. 3. It is in this regard, we heard the learned Government Advocate and the Counsel appearing for the appellant and other counsel appearing in the similar cases. 4. Section 89 was inserted by the Code of Civil Procedure (Amendment) Act 1999 inter alia providing for settlement of dispute outside the Court. This provision was inserted based on the acceptance of Justice Malimath Committee report, wherein the said Committee had emphasized for providing a legal sanction to such machinery for resolution of disputes and resort thereto in order to reduce and control the inflow of commercial transaction in regular civil courts. Justice Malimath Committee was also of the view that, the resolution of dispute be made obligatory on the part of the court, to resolve for settlement of the disputes and the Committee agreeing with the Law Commission recommended to provide for settlement of disputes outside the court at any stage of the proceedings by means of judicial settlement, arbitration, conciliation, mediation or through Lok Adalat and it is only after the party fails to get the dispute settled through any one of the alternative dispute resolution method, the suit shall proceed further in the court in which it was filed. The object, for making it obligatory on the part of the Court to refer the matter to the alternate dispute resolution methods, is to provide early disposal of the disputes, avoiding long waiting Page 1135 for justice for years and further avoiding judicial wrangles and multiplicity of appeals/revisions and also to reduce the burden on the judiciary of huge areas of cases pending at different levels of Courts. The result of this recommendation, Section 89 was inserted in the Code of Civil Procedure. 5. In consonance with the provisions of Section 89 of CPC, the Parliament brought an amendment to the provisions of Court Fees Act 1870 by inserting Section 16, which reads as under: Refund of Court Fee - Where the Court refers the parties to the suit to any 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. The object behind insertion of Section 16 to the Central Court Fees Act was to encourage the litigant to adopt

the alternate dispute resolution method for early disposal of the dispute. 6. It is in this context, in matter referred to any of the methods specified under Section 89 of the CPC and if the dispute is resolved, the party is entitled for refund of full court fees as contemplated under Section 16 of the Court Fees Act. It is in this regard, the appellant's Counsel had submitted that this dispute having been settled at the intervention of the Court by way of judicial settlement, party is entitled for refund of full court fees. He also submitted that in case of settlement arrived at Lok Adalat, Section 21 also provides for refund of full court fees in terms of Section 16 of the Court Fees Act and it is also submitted by the learned Counsel for the appellant that in all the settlements arrived before the Lok Adalat, full court fees has been refunded. 7. 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 term 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 Page 1136 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. Accordingly, the appeal stands disposed of.