

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

FRIDAY, THE 6TH DAY OF FEBRUARY 2015/17TH MAGHA, 1936

RFA.No.321 of 2011 (H)

AGAINST THE ORDER/JUDGMENT IN OS 136/2007 of
ADDL.SUB COURT, PALAKKAD DATED 12-11-2010

APPELLANT/DEFENDANT :

M.SATHYAPALAN,
55 YEARS,
S/O.DHARMAPALAN,
MELETHIL HOUSE, POST KANNIYAMPURAM,
OTTAPALAM TALUK.

BY ADVS.SMT.T.D.RAJALAKSHMI
SRI.R.SREEHARI

RESPONDENT/PLAINTIFF:

K.RAJAGOPALAN,
S/O.P.R.KUTTAN,
SUDARSANA, POST PUZHAVATHU, CHANGANASSERI,
KOTTAYAM DISTRICT. PIN-686 101.

BY ADV. SRI.N.HARIDAS
BY ADV. SRI.P.N.SASIDHARAN
BY ADV. SMT.RENJITHA PETER

THIS REGULAR FIRST APPEAL HAVING BEEN FINALLY HEARD ON
06-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.N.RAVINDRAN & ANIL K.NARENDRA, JJ.

R.F.A.No.321 of 2011

Dated this the 06th day of February, 2015

JUDGMENT

Anil K.Narendra, J.

The appellant is the defendant in O.S.No.136 of 2007 on the file of the Court of the Additional Subordinate Judge of Palakkad, filed by the respondent herein seeking recovery of a sum of ₹2,82,500/- together with interest @ 15% per annum on the principal amount of ₹2,00,000/- and costs. The trial court by the judgment and decree dated 12.11.2010 decreed the suit directing the appellant to pay a sum of ₹2,82,500/- to the respondent with interest @ 6% on the principal sum of ₹2,00,000/- from the date of suit till realisation and the appellant was further directed to pay the costs of the respondent. Aggrieved by the judgment and decree of the trial court the appellant has approached this Court in this appeal.

2. On 8.6.2011, this Court granted an interim stay of the execution of the decree passed in O.S.136 of 2007 on the file of the Court of the Additional Subordinate Judge of Palakkad, for a period

of 45 days on condition that the appellant furnishes security to the satisfaction of the trial court for the decree debt. The said interim order was not extended further. On 9.1.2015, in view of settlement of disputes between the parties, this Court directed them to be present before the Nodal Officer, Ernakulam Mediation Centre, on 29.1.2015 and the case was posted to 3.2.2015 for the report of the mediator.

3. Now the parties have settled the disputes in mediation and the terms and conditions of the settlement, reduced to writing in the form of a memorandum of agreement dated 29.1.2015, under Section 89 of the Code of Civil Procedure read with Rules 24 and 25 of the Civil Procedure (Alternative Dispute Resolution), Rules 2008, verified and signed by both the parties and attested by their respective counsel, is forwarded to this Court along with a report of the mediator dated 29.1.2015, for recording such compromise and to dispose of this appeal in terms of the said compromise. The terms of settlement contained in Clauses 1 to 3 of the memorandum of agreement dated 29.1.2015 read thus:-

"1. An amount of ₹8,50,000/- (Rupees Eight Lakhs and Fifty Thousand only) which was

due to the respondent Mr.K.Rajagopalan by the appellant Mr.Sathyapalan is paid by the appellant.

2. The respondent has accepted the amount as the full and final satisfaction of the decree amount and he has no further claim with regard to the decree and judgment dated 12.11.2014 in O.S.No.136/2007 of Addl.Subordinate Judge's Court, Palakkad.

3. The respondent further agrees to release and lift the attachment effected with respect to the appellant's properties namely;

i. 96 cent of land in re-survey No.93/9A of Mankara Village, Palakkad Taluk and Palakkad District.

ii. 23 cent of land in Re-survey No.92/2 of Mankara Village, Palakkad Taluk, Palakkad District."

4. In view of the compromise entered into between the parties, we dispose of this appeal, by passing a decree in terms of the settlement recorded in the memorandum of agreement dated 29.1.2015 so as to enable the parties to act in terms of the compromise recorded before the mediator on 29.1.2015. The respondent/plaintiff shall move an appropriate application before the Court of the Additional Subordinate Judge of Palakkad along with a certified copy of this judgment to release and lift the attachment

effected in O.S.No.136 of 2007 over the appellant's properties referred to in the memorandum of agreement dated 29.1.2015.

5. In view of the settlement through mediation, it is ordered that the appellant shall be refunded the whole court fee paid on the memorandum of appeal in this case.

Copy of memorandum of agreement dated 29.1.2015 shall be appended to this judgment.

P.N.RAVINDRAN, JUDGE

ANIL K.NARENDRA, JUDGE

skj