

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 4TH DAY OF FEBRUARY 2015/15TH MAGHA, 1936

RFA.No. 258 of 2014 (F)

AGAINST THE ORDER/JUDGMENT IN OS 227/2008 of SUB COURT,
THIRUVALLA DATED 04-09-2013

APPELLANT/PLAINTIFF :

G.BABU
S/O. P.R.GOVINDAN NAIR, CHITRA, KURANGAZHA P.O.
PULLADU MURI, KOIPPURAM VILLAGE, THIRUVALLA.

BY ADVS.SRI.ARUN.B.VARGHESE
SRI.JAYKER.K.S.

RESPONDENT/DEFENDANT :

C.D.SUJATHA,
W/O. VIJAYAKUMARAN NAIR, KANNANPURAYIDOM,
ANTHALIMANNIL, KURUVANKUZHY P.O., PULLADU MURI,
KOIPPURAM VILLAGE,
THIRUVALLA TALUK.

PRESENT ADDRESS: CHAPARATHU VEEDU,
PERUNNA P.O., CHANGANASSERY TALUK, PIN-688 001.

BY ADV. SRI.S.JAYAKRISHNAN

THIS REGULAR FIRST APPEAL HAVING BEEN FINALLY HEARD
ON 04-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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

R.F.A.No.258 of 2014

Dated this the 04th day of February, 2015

JUDGMENT

Anil K.Narendran, J.

The plaintiff in O.S.No.227 of 2008 on the file of the Court of the Subordinate Judge of Thiruvalla is the appellant in this appeal. The said suit was filed seeking specific performance of Ext.A1 agreement dated 1.3.2008 executed between the appellant and the respondent. The trial court by judgment and decree dated 4.9.2013 dismissed the suit holding that, once the appellant failed to prove the execution of Ext.A1 sale deed no decree for specific performance can be granted. Aggrieved by the said judgment and decree the appellant filed this appeal before this Court.

2. By order dated 20.11.2014 on the request of both sides, the matter was referred for mediation before the Ernakulam Mediation Centre and the parties were directed to appear before the Nodal Officer on 3.12.2014.

3. Now, the parties have settled the dispute in mediation and the terms and conditions of settlement reduced to writing in the

form of a memorandum of agreement dated 28.1.2015 filed 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 all the parties and attested by their respective counsel, is forwarded to this Court along with a report of the Mediator dated 28.1.2015, for recording such compromise and to dispose of this appeal in terms of the said compromise. The terms of settlement contained in paragraphs 1 and 2 of the memorandum of agreement dated 28.1.2015 read thus;

“1. The respondent/defendant agrees to pay an amount of Rs.50,000/- (Rupees Fifty Thousand only) towards full and final settlement of the claim of the appellant/plaintiff in the above appeal and the appellant agrees to accept the same and settle the dispute which is with regard to realization of money.

2. The parties agree that the above amount can be paid by two installments of Rs.25,000/- each within a period of 3 months from today; i.e. Rs.25,000/- shall be paid on or before 16.3.2015 and the balance Rs.25,000/- shall be paid on or before 29.04.2015. The said term is agreed to be fulfilled by the respondent without failure and in case of

default of payment the said amount shall carry
an interest of 12% per annum till realization.”

4. In view of the compromise entered into between the parties, we set aside the decree and judgment dated 4.9.2013 in O.S.No.227 of 2008 on the file of the Court of the Subordinate Judge of Thiruvalla, and dispose of this appeal decreeing the said suit in terms of the compromise recorded before the Mediator on 28.01.2015.

In view of settlement of the disputes 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 28.1.2015 shall be appended to this judgment.

P.N.RAVINDRAN, JUDGE

ANIL K.NARENDRAN, JUDGE

skj

True copy

P.A to Judge