

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09.03.2015**

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

A.S.No.244 of 2014 and
M.P.Nos.1 of 2010 and 1 of 2015

Natchaththiram

Appellant

VS.

Alice

Respondent

Prayer:-Appeal filed under Section 100 C.P.C., against the judgment and decree of the IV Additional City Civil Judge at Chennai dated 22.12.2009 in O.S.No.2450 of 2009.

For Appellant : Mr.P.Valliappan

For Respondent : Mr.Kaalathinathan

JUDGMENT

The defendant in O.S. No.2450 of 2009 on the file of the learned IV Additional City Civil Judge, Chennai, is the appellant herein. The plaintiff in the said suit is the respondent herein. The plaintiff filed the said suit for partition and for allotment of half share in the suit property and also for damages. The Trial Court by decree and judgment dated 22.12.2009, decreed the suit by passing a preliminary decree as prayed for thereby granting half share in the suit property to the plaintiff. So fas

as the damages is concerned, the Trial Court held that, it could be decided by separate proceedings. As against the same, the defendant has come up with this First Appeal before this Court.

2.I have heard the learned counsel for the appellant and the learned counsel for the respondent and I have also perused the records carefully.

3.Mrs.Alice/the respondent herein has filed M.P.No.1 of 2015 in A.S.No.244 of 2010, under Order XXIII Rule 3 of C.P.C., requesting this Court to record the compromise entered into between the appellant and the respondent in respect of the dispute in this First Appeal.

4.As a matter of fact, a Joint Compromise Memo signed by both parties as well as their counsel dated 09.3.2015, has also been produced before this Court. On enquiries, both parties would submit that the compromise is real and they would submit that decree may be passed in accordance with the terms and conditions of the Joint Compromise Memo dated 09.03.2015. The learned counsel on either side would also confirms the same.

5. I am convinced that the compromise is real and therefore, I am inclined to allow this miscellaneous petition in M.P.No.1 of 2015 and also to dispose of the First Appeal in A.S.No.244 of 2010 by decreeing the same in terms of compromise.

6. In the result, M.P.No.1 of 2015 is allowed and the appeal is also allowed thereby modifying the decree of the Trial Court in O.S.No.244 of 2010 dated 22.12.2009. Accordingly, there shall be a decree in terms of the Joint Compromise Memo dated 09.3.2015. The Joint Compromise Memo shall form part of the decree and the same shall also form part of the records of the Court. This decree shall be treated as final decree. No costs. Consequently, M.P.No.1 of 2010 is closed.

09.03.2015

jbm/ds

To

The IV Additional City Civil Judge,
Chennai.

S.NAGAMUTHU,J.

Jbm/ds

A.S.No.244 of 2010

09.03.2015