

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2015

CORAM

THE HON'BLE MR.JUSTICE S.NAGAMUTHU

Second Appeal No.1307 of 2014
and M.P.Nos.1 of 2014 and 1 of 2015

1.Devamma
2.P.Ramesh

... Appellants/Defendants

-Versus-

1.Adilakshmi
2.Govindammal

... Respondents/Plaintiffs

This second appeal is filed u/s.100 of C against the judgment and decree dated 19.09.2014 passed in A.S.NO.506 of 2012 by the learned V Additional Judge, City Civil Court, Chennai, confirming the judgement and decree dated 17.09.2012 passed in O.S.No.979 of 2010 by the learned XV Assistant Judge, City Civil Court, Chennai.

For Appellants : Mr.R.Manickavel

For Respondents : Mr.M.Sarfudeen Ali Ahamed

JUDGMENT

The defendants in O.S.No.979 of 2010 on the file of the learned XV Assistant Judge, City Civil Court, Chennai, are the appellants herein. The respondents are the plaintiffs in the suit. The said suit was filed for a decree for mandatory injunction directing the defendants to vacate and handover possession of the suit property to the plaintiffs. The trial court, by decree and judgement dated 17.09.2012, decreed the suit. As against the same, the defendants filed an appeal in A.S.No.506 of 2012 before the learned V Additional Judge, City Civil Court, Chennai. By decree and judgement dated 19.09.2014, the first appellate court dismissed the appeal thereby confirming the decree and judgement passed by the trial court. Aggrieved over the same, the defendants are now before this court with this second appeal.

2. According to the plaintiffs, the suit property bearing Door No.22, Eligan Street, Arunthathiar Nagar, Mettupalayam, Chennai 600 012 measuring 400 square feet was originally allotted to the plaintiffs' grand father - Chevoor Karuppaiah. After his demise, their father late Mathiah and mother late Mrs.Achuthammal inherited the property and they were in possession and enjoyment of the same.

The plaintiffs' mother - Achuthammal had put up a house and let out the same to one late Padmanabhan, the husband of the 1st defendant for rent. After the demise of Mrs.Achuthammal, Mr.Padmanabhan failed to pay rent. After some time, Mr.Padmanabhan started claiming that he had purchased the suit property from Mrs.Achuthammal. Mr.Padmanabhan also filed a suit before the City Civil Court in O.S.No.3826 of 2006 against the respondents herein and obtained an order of injunction. That suit was ultimately decreed. However, according to the plaintiffs, neither Mr.Padmanabhan nor the 1st defendant has got any legal right to continue to be in possession. Therefore, the present suit.

3. In the written statement filed by the defendants it was contended that Mr.Padmanabhan had purchased the suit property from the mother of the plaintiffs viz., Mrs.Achuthammal in the year 1990 by means of an oral sale.

4. Based on the above pleadings, the trial court framed appropriate issues. The trial court decreed the suit and the same was confirmed by the first appellate court. That is how the appellants/defendants are now before this court.

5. This second appeal has come up today for admission. when the second appeal was taken up, the respondents have filed a miscellaneous petition in M.P.No.1 of 2015 under Order 23, Rule 3 of CPC to record the compromise reached between the parties. Mrs.Adilakshmi, the 1st respondent in the appeal has filed an affidavit also. A joint compromise memo signed by the appellants 1 and 2 and the respondents 1 and 2 is also filed.

6. I have heard the learned counsel on either side.

7. Today, the 1st respondent - Mrs.Adilakshmi is present. The 2nd respondent - Mrs.Govindammal is not present and it is stated that today she developed ill-health. However, the 2nd respondent's son Mr.Deepan Raj is present. On inquiries, they would submit that the matter has been compromised as enumerated in the compromise memo. The appellants Mrs.Devamma and Mr.P.Ramesh are also present before this court. They would also submit that they were parties to the compromise and decree may be passed in terms of the compromise memo. The learned counsel on either side would also confirm the same.

8. From the affidavit filed by Mrs.Adilakshmi, the 1st respondent and from my inquiries with the parties and also from all the other connected records, I am satisfied that the compromise is real and therefore, I am inclined to record the compromise.

9. Today, Mrs.Adilakshmi, the 1st respondent has, in terms of compromise, handedover a Cheque bearing No.869206 dated 15.04.2015 for Rs.1,75,000/- [Rupees One Laks Seventy Five Thousand only] drawn

on State Bank of India, Jamalia Branch to the appellants. The same is also recorded.

10. In view of all the above, M.P.No.1 of 2015 is allowed and the compromise reached between the appellants and the respondents is recorded. The second appeal is, accordingly, disposed of and there shall a decree in terms of the compromise. The compromise memo shall form part of the decree. In the event, any of the parties failed to follow the terms of compromise, the aggrieved may approach this court. No costs. Consequently, M.P.No.1 of 2014 is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

kmk

To

- 1.The V Additional Judge, City Civil Court, Chennai
- 2.The XV Assistant Judge, City Civil Court, Chennai.

+ 1 cc to Mr.R. Manickavel, Advocate SR.18501

KK(CO)
EU 01.06.2015

Second Appeal No.1307 of 2014

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