

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2015

CORAM :

THE HONOURABLE Mr.JUSTICE N.KIRUBAKARAN

C.M.A.No.3553 of 2014

and

M.P.No.1 of 2014

Mr.R.P.Darmalingam

... Appellant/
Plaintiff

Vs.

1.Mr.N.Varadharajan

2.Mr.N.Padmanabhan

3.Mr.N.Venkataraman

4.Mr.N.Sundara Babu

5.Mr.D.Sirdhar

6.Mr.V.Dharmalingam

7.Mr.T.Karnan

... Respondents/
Defendants

Prayer: Civil Miscellaneous Appeal has been filed under Order XLIII Rule 1(r) of C.P.C. against the fair and decretal order passed in I.A.No.192 of 2014 in O.S.No.46 of 2006 dated 28.11.2014 on the file of the Additional District Judge-III, Poonamalle.

For Petitioner : Mr.M.Vivekanandan

For Respondents : Mr.S.R.Rajagopalan (For R6 & R7)

Mr.M.Varadhan (For Caveator)

Mrs.Sugumari - Advocate Commissioner

ORDER

The appellant is the agreement holder with the respondents to purchase the properties comprised in various survey numbers measuring to an extent of 21 acres 54 cents situated at Manchampakkam Village in Ambattur Taluk, Tiruvallur District, as stated in the schedule of the plaint in O.S.No.46 of 2006 filed by the appellant herein against the respondents herein, on the file of the learned III Additional District Judge, Poonamallee, for specific performance of the agreement.

2. In the said suit, I.A.No.192 of 2014 was taken out by the appellant herein/plaintiff under Order 39 Rules 1 & 2 restraining the respondents from putting up any superstructure or dealing with the property and the said application, on contest, was dismissed on 28.11.2014, against the dismissal order only the present appeal has been filed by the appellant/plaintiff.

3. On notice, the respondents appeared through counsel. This Court suggested the both parties for negotiation to settle the matter. Now, with the active co-operation of the learned counsel appearing for both parties, the parties have come to a compromise, which is reflected in the Joint Memo of Compromise dated 30.08.2015 filed by both sides before this Court. In the Joint Memo of Compromise, it was agreed that the respondent shall execute a sale deed in favour of the appellant in respect of the land measuring to an extent of 2 acres 31 cents, as stated in para 3 of the Joint Memo of Compromise, within a period of 15 days and another sale deed in respect of 2 acres 19 cents, as stated in para 4 of the Joint Memo of Compromise, within a period of three months.

4. Today, all the parties have appeared before this Court and they categorically stated that they agree for executing the Joint Memo of Compromise.

5. Taking into consideration the time consumed so far and the time taken for negotiation, it may not be possible for the respondents to execute the sale deeds within the time limit mentioned in the Joint Memo of Compromise. Therefore, this Court passes the following order:-

(i) So far as the sale deed in respect of 2 acres 31 cents is concerned, the same shall be executed by the respondents in favour of the appellant, as described in para 3 of the joint memo of compromise, within a period of 15 days from the date of receipt of a copy of this order. As regards the sale deed in respect of 2 acres 19 cents, as described in para 4 of the Joint Memo of Compromise, the same shall be executed by the respondents in favour of the appellant within a period of three months from the date of receipt of a copy of this order. Joint Memo of Compromise filed by both parties shall form part of the order.

(ii)Further, since compromise has been entered into between the parties in entirety, no useful purpose will be served in keeping the suit in O.S.No.46 of 2006 on the file of the learned III Additional District Judge, Poonamallee. Therefore, by invoking the powers under Article 226 of Constitution of India, suo motu this Court withdraws the suit in O.S.No.46 of 2006 pending on the file of the learned III Additional District Judge, Poonamallee and disposes the same in terms of the Joint Memo of Compromise, which shall form part of the order.

With the above terms, the Civil Miscellaneous Appeal is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Post the case for compliance after four weeks.

SSV

Sd/-
Assistant Registrar (C.C.C.)

/True Copy/

Sub-Assistant Registrar

To

The Additional District Judge-III,
Poonamallee.

+1 C.C. To MR.M.Vivekanandan, Advocate in SR.NO.16631

C.M.A.No.3553 of 2014
and
M.P.No.1 of 2014

TEJ(CO)
sd : 05/11/2015

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