

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 15.09.2015

CORAM ::

THE HONOURABLE MR.JUSTICE **K. RAVICHANDRABAABU**

C.S.No.350 of 2015

and

O.A.No.460 of 2015

V.Shanmuganathan

... Plaintiff

- Vs -

V.Bhavani Shankar

... Defendant

Plaint filed under Order IV Rule 1 of the O.S. Rules read with Order VII Rule 1 of C.P.C. praying for a Judgment and Decree against the defendant directing the division of the Schedule property into two shares by metes and bounds and allotting 1/2 share to the Plaintiff and consequently for appointment of Commissioner for effecting Partition in terms of the Preliminary Decree and putting the plaintiff in possession of his half share in the schedule mentioned property for permanent injunction restraining the defendant his men, agents or anybody claiming under or on behalf of the defendant herein any manner dealing with the schedule property either by alienating, leasing mortgaging or in any other manner and to pay costs of this suit.

For Plaintiffs

:: Mr.K.V.Sundararajan

For Defendant

:: Mr.P.Seshadri

J U D G M E N T

The above suit is filed for partition and permanent injunction.

2. Today, a memo of compromise dated 15.09.2015 is filed before this Court. The said memo is signed by both the parties as well as their respective counsels. The terms of the memo

reads as follows:

" It is submitted that pending proceedings, the Parties have sat together and have arrived at an amicable settlement in the following manner:

(i) The Plaintiff shall get the rear portion measuring about 1200 sq.ft., which is more fully described in the Schedule 'B' hereunder, and shown as 'D, E.H & I' in the sketch annexed hereto and coloured in 'RED'.

(ii) That in pursuance of the said Agreement and in consideration of the absolute ownership acquired by the parties in respect of the allotments made and by virtue of mutual transfers and releases hereunder effected the Defendant grant, convey, transfer, assure, assign confirm and release unto the Plaintiff the property set forth in 'B' Schedule hereto together with all areas, sewers, drains, water, water courses lights, liberties, easements appendages and appurtenances whatsoever so as to constitute the Plaintiff as the sole and absolute owner of the property comprised in the said 'B' Schedule freed and discharged from all rights in common and all claims, demands whatsoever of the parties of the other parts concerning the same and TO HAVE AND HOLD the same absolutely and forever in severalty against the Defendant.

(iii) The Defendant shall get the front portion measuring about 1200 sq. ft., which is more fully described in the Schedule 'C' hereunder and shows as 'E, F, G & H' in the sketch annexed hereto and coloured in 'BLUE'.

(iv) That in pursuance of the said Agreement and in consideration of the absolute ownership acquired by the parties in respect of the allotments made and by virtue of mutual transfers and releases hereunder effected the Plaintiff grant, convey, transfer, assure, assign confirm and release unto the Defendant the property set forth in the 'C' Schedule hereto together with all areas, sewers, drains, water, water courses lights, liberties, easements, appendages and appurtenance whatsoever so as to constitute the Defendant as the

sole and absolute owner of the property comprised in the said 'C' Schedule freed and discharged from all rights in common and all claims, demands whatsoever of the parties of the other parts concerning the same and TO HAVE AND HOLD the same absolutely and forever in severalty against the Plaintiff.

(v) The passage on the Eastern side measuring about 10'.3" x 80' = 810 sq.ft., which is more fully described in the Schedule 'D' hereunder, and shows as 'A, B, C, D, E & F' in the sketch annexed hereto and coloured in 'GREEN', shall be common passage and both the parties are entitled to use the same.

(vi) The portions earmarked as 'E & H' have come half way through the existing building. Therefore, when the Plaintiff demolishes the building in the Schedule 'B' property, the building standing on the Schedule 'C' might get damaged. On such an event, no claim, namely any damage or compensation shall be claimed against the Plaintiff or prevent the construction work of the Plaintiff in the Schedule 'B' property.

(vii) When the Defendant demolishes the building in the Schedule 'C' property, the building standing on the Schedule 'B' might get damaged. On such an event, no claim, namely any damage or compensation shall be claimed against the Defendant or prevent the construction work of the Defendant in the Schedule 'C' property.

(viii) The Passage shown in the Schedule 'D' shall be commonly used by both the parties. But, the parties shall not obstruct the usage of the common passage by parking any vehicle, planting trees or in any other manner. The Schedule 'D', the passage shall be kept free obstruction for ingress and egress.

(ix) Both the parties agree that both of them are entitled to construct by having cantilever construction projection in the first floor to an extent of 3' (three feet) in the common passage, more particularly set out in the Schedule 'D' hereunder. This is subject to clause (viii).

(x) The Plaintiff was maintaining the Schedule 'A' mentioned property by paying Taxes, etc. out of his pocket. After discussion, the Defendant's share towards maintenance expenses, etc. is fixed at Rs.2,00,000/-. The said sum of Rs.2,00,000/- has been paid today by the Defendant to the Plaintiff by way of cash.

(xi) There are no other claims as between the parties herein."

3. Both sides prayed that the suit may be decreed in terms of the above memorandum of compromise. Both the parties are also present before this Court.

4. Considering the facts and circumstances, the suit is decreed in terms of the above memorandum of compromise dated 15.09.2015. The said memorandum of compromise shall form part of the record as well as the decree. The connected Application is closed. There shall be no order as to costs.

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sd/.K.R.C.B.J

15.09.2015

WEB COPY

//Certified to be a true copy//
Dated this the day of 2016.

S.s/06.07.2016

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.