

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2015

Coram

The Hon'ble Mr. Justice V.RAMASUBRAMANIAN
and
The Hon'ble Mr. Justice T.MATHIVANAN

A.S.No.131 of 2013
and
M.P.Nos.1 and 2 of 2013

Kotteeswaran

... Appellant/Plaintiff

Vs

1.Balasubramaniam
2.Sivakumar
3.Dakshayaniammal
4.Deepa
5.Suresh Babu
6.The Regional Transport Officer,
Vellore.
7.K.Yuvaraj
8.K.Suresh Babu
9.N.Gowri
10.V.Nirmala
11.A.Nalina
12.Kalaivani

... Respondents/Defendants

Appeal preferred against the judgment and decree dated 31.08.2012 in O.S.No.23 of 2006 on the file of the I Additional District and Sessions Judge (Fast Track Court), Vellore.

For Appellant : Mr.J.Srinivasa Mohan

For Respondents : Mr.K.Mani for R1 & R2
Mr.Mukundan for
M/s.Sarvabhauman Associates
for R7 & R8

JUDGMENT

(Judgment of the Court was delivered by V.RAMASUBRAMANIAN, J.)

The plaintiff in a suit for partition is the appellant. The first respondent in the appeal is the father of the appellant/plaintiff. The second respondent in the appeal is the brother of the appellant. The third respondent is the mother of the appellant. The respondents 9 to 12 are the sisters of the appellant. The respondents 4 and 5 are the alienees of some immovable properties from the first respondent company. The respondents 7 and 8 are the second set of alienees, who purchased the very same properties from the respondents 4 and 5. The 6th respondent is the Regional Transport Officer, Vellore.

2.It appears that the properties in respect of which the appellant/plaintiff claimed partition, included immovable properties as well as two route permits issued in terms of Motor Vehicles Act, 1988.

3.The Trial Court dismissed the suit holding that the properties were the self-acquired properties of the first respondent father. Therefore, the plaintiff who happens to be the eldest son, came up with the above appeal against the dismissal of his suit for partition.

4.Pending the appeal, the parties have entered into a settlement. Broadly, the terms of the settlement appear to be as follows:

"1.The plaintiff/appellant has given up his claims over all the immovable properties that were included in the plaint schedule.

2.As a consequence of the plaintiff giving up all his claims over all the immovable properties, the lis between the plaintiff and the respondents 4, 5, 7 and 8 do not survive any longer.

3.Since the finding of the Trial Court that the properties are self acquired properties of the first respondent father has not been challenged by the daughters (sisters of the appellant), who are the respondents 9 to 12, the respondents 9 to 12 cannot now oppose any compromise between the appellant and the first respondent. As a matter of fact, the respondents 9 to 12, though they are not parties to the memo of compromise, are present in Court and they have given their consent to the compromise."

5. In the light of the above, the joint memorandum of compromise has been signed between the appellant on the one hand and the respondents 1 and 2 on the other hand. As we have indicated, the claim against the respondents 4, 5, 7 and 8 does not survive. There is no claim against the respondents 9 to 12. The third respondent is the mother. She is no more. The sixth respondent is the Regional Transport Officer, who is a formal party.

6. In view of the above, the memorandum of compromise signed by the appellant and the respondents 1 and 2 is taken on record. The appellant and respondents 1 and 2 are present in Court. They confirm the terms of compromise. The terms of compromise read as under:

"1. The appellant had filed a suit for partition in O.S.23/2006 on the file of 1st Addl. & District and Sessions Judge, Vellore and the same was dismissed. Against the same the appellant filed the present first appeal and the same is pending.

2. The 1st respondent is the father and the 2nd respondent is the brother of the appellant. The 3rd respondent mother died and her legal heirs are already on record. Respondents 4 to 8 are third parties. Respondents 9 to 12 are appellant's sisters and do not hold any properties. They were added as proper parties.

3. The parties namely the appellant and respondents 1 and 2 have, in the interest of peace and cordial relationship in the family, agreed to resolve the dispute among themselves.

4. In view of the above the parties have agreed as follows:

a. The appellant shall furnish 'no objection' to the transfer of permit 57/VLR/2009 in respect of stage carriage TN 23 AE 7831 plying on the route Vellore to Kalavai and confirm ownership of 1st respondent E. Balasubramaniam and thereafter to 2nd respondent B. Sivakumar.

b. The 1st respondent shall transfer stage carriage permit No. 70/VLR/2010 in respect of Vehicle No. TN 55 B 2099 plying on the route Ponnai to Vembakkam in favour of the appellant B. Kotteswaran and confirm the ownership of the appellant.

c.The appellant shall not raise any claim to any of the other properties movable and immovable mentioned in the schedule of the plaint and confirm the ownership of the respective parties covered in the trial court judgment, in appeal.

5.The appellant, 1st respondent and 2nd respondent are the only necessary parties and other respondents are formal parties. The parties herein therefore pray that the appeal may be disposed of in terms of the compromise memo arrived among the parties herein."

7.There will be a decree in terms of memo of compromise. The appeal stands disposed of. The memo shall form part of the records. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

mmi

To

The I Additional District and Sessions Judge,
Fast Track Court,
Vellore.

Copy To

The Section Officer,
V.R. Section,
High Court, Madras.

+2cc's to Mr.K.Mani, Advocate, S.R.No.29277 & 29231

KU(CO)
CA(22/06/2015)

A.S.No.131 of 2013

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