

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

Second Appeal No.533 of 2013
and
M.P.Nos.1 of 2013, 1 & 2 of 2015

1. Balavelumani
2. V.Veeragowtham (deceased)
3. V.Lavanya .. Appellants/Defendants 1 to 3

- Vs -

1. Thulasiammal .. Plaintiff
2. Ravikumar
3. Mohandas .. Respondents/Defendants 4 & 5

Prayer:- Second Appeal filed under Section 100 of C.P.C., against the Judgment and Decree dated 22.11.2012, made in A.S.No.8 of 2011 on the file of the learned I Additional District Judge, Coimbatore confirming the Judgment and Decree dated 26.11.2010, made in O.S.No.546 of 2004 on the file of the learned II Additional Subordinate Judge, Coimbatore.

For Appellants : Mr.V.Lakshminarayanan
for M/s.Corner Stone Ascts

For Respondent 1 : Mr.S.Doriasami
SC for Mr.Muthumani Doriasami

J U D G M E N T

The defendants 1 to 3 in O.S.No.546 of 2004, on the file of the learned II Additional Subordinate Judge, Coimbatore are the appellants. The first respondent is the plaintiff in the suit. The respondents 2 and 3 are the defendants 4 and 5 in the suit but they remained ex parte all through. The suit was filed for partition and for separate possession of the share of the plaintiff Mrs.A.Thulasiammal. The suit was decreed by the Trial Court by decree and judgment dated 26.11.2010. As against the same, the appellants filed appeal in A.S.No.8 of 2011 before the learned I Additional District Judge, Coimbatore. By decree and judgment dated 22.11.2012 the learned I Additional District Judge, Coimbatore dismissed the appeal thereby confirming the decree and judgment of the trial Court. Challenging the same, the appellants are before this Court with this second appeal.

2. This second appeal has come up today for admission. The second appellant Mr.V.Veeragowtham is now no more. He passed away

on 11.06.2013. He was a bachelor. A memo has been filed by the learned counsel appearing for the appellants that the first appellant is the sole legal representative of the second appellant and accordingly the same has been recorded. The learned counsel appearing for the first respondent has got no objection. Therefore, the memo is recorded and accordingly in the appeal it is recorded that the second appellant is dead and the first appellant is his legal representative.

3. The third appellant Mrs.Lavanya is now residing in Sharjah, United Arab Emirates along with her husband. She has appointed the first appellant herein as her Power of Attorney. The special Power of Attorney has been filed before this Court. The first appellant has filed M.P.No.1 of 2015 to recognize her as the Power of Attorney of the third appellant. The learned counsel appearing for the first respondent has got no objection in allowing the said petition. Accordingly, the same is allowed and the first appellant is recognized as the Power of Attorney of the third appellant.

4. Today, when the matter was taken up, the appellants have filed a miscellaneous petition in M.P.No.2 of 2015 reporting to this Court that the dispute has been amicably settled between the parties and requested this Court to pass decree in terms of the compromise and a compromise memo in vernacular language signed by the first appellant on her behalf and on behalf of the third appellant and by the first respondent as well as signed by the respective counsel has been filed. In the said compromise memo, it is stated that the dispute has been amicably settled, by which, the properties allotted to the respective parties have been given in detail in the schedule to the compromise memo. The first appellant and the first respondent are present before this Court. The first respondent is assisted by her daughter P.T.Veeralakshmi. She has also signed the compromise memo. It appears that during the pendency of this proceedings, the first respondent has settled some properties, which are the subject matter of the suit in favour of P.T.Veeralakshmi and the parties have now agreed that the settlement deed shall be cancelled. The parties who are present before this Court affirmed the compromise.

5. In view of all the above, this second appeal is partly allowed in terms of the compromise memo and the compromise memo shall form part of the decree. Accordingly the decree and judgment of the lower appellate Court is modified in terms of the compromise memo. Consequently, the connected miscellaneous petition in M.P.No.1 of 2013 is closed. No costs.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1. The I Additional District Judge,
Coimbatore.
2. The II Additional Subordinate Judge,
Coimbatore.
3. The Section Officer,
V.R. Section,
High Court, Madras.

+2 cc's to M/s.Corner Stone Associates,Advocate,sR.11168.

+4 cc's to Mr.Muthumani Doraisami, Advocate,SR.10826.

ev(co)
krd 24/4

S.A.No.533 of 2013 and
M.P.Nos.1 of 2013, 1 & 2 of 2015



WEB COPY