

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2015

CORAM

THE HONOURABLE Mr.JUSTICE S.NAGAMUTHU

S.A.No.292 of 2015
and
M.P.Nos.1 to 4 of 2015
and
A.No.1706 of 2011

K.Sasidharan ...Appellant/Defendant

-Vs-

V.Rajasekaran ...Respondent/Plaintiff

Second Appeal filed under section 100 of C.P.C against the judgment and decree passed in A.S.No.93 of 2011 on the file of the Subordinate Judge, Tambaram dated 19.02.2015 by confirming the judgment and decree passed in O.S.No.170 of 1999 on the file of the Additional District Munsiff Court at Alandur dated 05.04.2011.

For Appellant : Mr.S.Balasubramanian

For Respondent : Mr.S.V.Jayaraman, Sr. Counsel
for Mr.S.P.Ravishankar

JUDGMENT

The defendant in O.S.No.170 of 1999 on the file of the learned Additional District Munsif, Alandur is the appellant herein. The respondent is the plaintiff in the suit. The respondent filed the said suit for permanent injunction restraining the defendant from in any manner interfering with his peaceful possession and enjoyment of the suit property. By decree and judgment dated 05.04.2011, the trial Court decreed the said suit as prayed for. As against the same, the defendant filed an appeal in A.S.No.93 of 2011. The learned Subordinate Judge, Tambaram, by decree and judgment dated 11.09.2012, allowed the appeal and set aside the decree and judgment of the trial Court. The learned Subordinate Judge, Tambaram, further directed both parties to maintain status quo of the suit property till the disposal of the suit for declaration filed by the plaintiff before the High Court.

2. As against the said decree and judgment of the Appellate Court, the plaintiff filed an appeal in S.A.No.178 of 2013 before this Court. By decree and judgment dated 16.10.2014, this Court allowed the second appeal and remanded back the first appeal in A.S.No.93 of 2011 to the Appellate Court for the limited extent of directing the appellate Court to hear the arguments of both sides with the available materials on record, without permitting any of the parties to produce any other evidence and give a clear finding, as to whether on the date of filing of the suit, the plaintiff was in possession of the suit property or not and dispose of the appeal. In pursuance of the said direction, the learned Subordinate Judge, Tambaram by decree and judgment dated 19.02.2015, dismissed the appeal, thereby, confirming the decree and judgment of the trial Court in O.S.No.170 of 1999. As against the same, the defendant is before this Court with this second appeal.

3. I have heard the learned counsel appearing on either side and perused the records carefully.

4. The appellant Mr.K.Sasidharan and the respondent Mr.Rajasekaran are present before this Court. The appellant filed M.P.No.4 of 2015 before this Court under Order XXIII Rule 3 of the Code of Civil Procedure seeking to record the compromise entered between the parties and to dispose of the second appeal in terms of the compromise. The memo of compromise has also been filed along with this petition.

5. When I enquired the appellant as well as the respondent, they submitted before the Court that the compromise is real and genuine. Learned counsel on either side also stated so. I have fully satisfied that the compromised is real and therefore, I am inclined to accept the said compromise memo.

6. In terms of the compromise memo, today, in open Court, the respondent has paid a sum of Rs.30,00,000/- (Rupees Thirty Lakhs only) to the appellant and the appellant has accepted the same. The same is recorded.

7. It is submitted by the learned counsel for the appellant that in respect of a different property, there is a separate suit in O.S.No.89 of 2008 pending on the file of Sub Court, Tambaram. That suit has got nothing to do with the present suit property. The learned counsel for the appellant would submit that it may be clarified that the compromise decree obtained in this suit may not be a hindrance for the appellant herein to defend the said suit. In this regard, since it is said that suit is in respect of some other property and the parties are also different, the judgment of this court and also the compromise between the parties may not be a hindrance for the appellant to defend the said suit.

8. The respondent herein has filed one civil suit before this Court for declaration of title of the suit property in the instant case, and for consequential relief. Seeking leave to entertain the said suit by this Court, as the suit property falls outside the jurisdiction of this Court, the respondent herein has filed an application in A.No.1706 of 2011 and that application is also before me. In view of the above compromise, since the appellant in the second appeal gives up his claim for rights and title for the suit property in favour of the respondent herein Mr.Rajasekaran, the application in A.No.1706 of 2011 is liable to be dismissed and the parties also prayed for the same. Accordingly, the A.No.1706 of 2011 is dismissed.

9. So far as the second appeal in S.A.No.292 of 2015 is concerned, the same is disposed of in terms of the compromise memo and there shall be a decree in terms of the compromise memo. The decree and judgment of the trial court and the Appellate Court shall stand confirmed in terms of the compromise memo. The compromise memo shall form part of the decree. No costs. Consequently, M.P.No.4 of 2015, seeking to record the compromise memo, is allowed and M.P.Nos.1 to 3 of 2015 are closed.

Sd/-

Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

vsm

To

1. The Subordinate Judge,
Tambaram

2. The Additional District Munsiff Court
at Alandur.

1CC to Mr.S.P.Ravishankar, Advocate, SR 69601

S.A.No.292 of 2015

UG (CO)
PSI 15/03/2016