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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

S.A.No.83 of 2015

and

M.P.No.1&2 of 2015

Nagammal

...Appellant/Defendant

Vs

Nataraja Reddy

... Respondent/Plaintiff

SECOND APPEAL filed under Section 100 of Code of Civil Procedure against the judgment and decree in A.S.No.22 of 2007 dated 08.12.2008 on the file of the Additional District Judge-cum-FTC-IV, Ponneri, reversing the judgment and decree in O.S.No.195 of 1996 dated 24.03.2006 on the file of the learned District Munsif Court, Ponneri.

For Appellant : Mr.N.Anand Venkatesh

For Respondent : Mr.P.V.Muralidharan

J U D G M E N T

The defendant in O.S.No.195 of 1996 on the file of the learned District Munsif, Ponneri is the appellant herein and the respondent is the plaintiff in the suit. The said suit was filed in respect of 4½ Cents of land, comprised in Survey No.366/3 at Edur village, Gummudipoondi Taluk, Tiruvallur District [erstwhile Chengalpattu District]. The suit was filed for declaration of title and for permanent injunction to restrain the defendant from in any manner interfering with the plaintiff's peaceful possession and enjoyment of the suit property. The trial court, by decree and judgment dated 24.03.2006 dismissed the suit. As against the same, the plaintiff filed an appeal in A.S.No.22 of 2007. The learned Additional District Judge, Fast Track Court No.IV, Ponneri, by decree and judgment dated 08.12.2008, allowed the appeal, thereby, setting aside the decree and judgment of the trial court and decreed the suit as prayed for. As against the same, the appellant is before this Court with this Second Appeal.

2. When this appeal was taken up today, the appellant has filed M.P.No.2 of 2015 under Order XXIII Rule 3 CPC seeking to record the compromise reached between the parties. A memo of compromise has also been filed.

3. The appellant is present before this Court along with her son Mr.Venkatesan. The appellant would submit that the compromise is real and therefore, a decree may be passed in terms of the compromise memo. The learned counsel for the appellant would also say the same.



4. The respondent is also present before this Court. The respondent would also say that the matter has been compromised and a decree may be passed in terms of the compromise memo filed along with the petition.

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5. The appellant has affixed her left thumb impression in the compromise memo and the respondent admits the signature in the said compromise memo. The learned Counsel for the respondent would also submit that the decree may be passed as per the compromise memo.

6. Having heard the parties in person and the learned Counsel on either side and having gone through the memo of compromise filed before this Court and the affidavit filed by the appellant, I am satisfied that the compromise is real and therefore, I am inclined to accept the same and pass a decree in terms of the compromise memo.

7. As per the memo of compromise, it is stated inter alia that the appellant has agreed to demolish the existing structure on the suit property, within a period of two months from today and both the parties will, thereafter, survey the suit property and divide the same in such a manner that the appellant would get 2 cents of land and the respondent would get 2½ cents and both the respective sharers have direct access from NH5. It is also stated in the compromise memo that the respondent has agreed to pay a sum of Rs.25,000/- to the appellant on or before 31.03.2015.

8. But, during the course of the proceedings before this Court, now the respondent has paid Rs.25,000/- in cash, directly to the appellant in Open Court. The appellant has received the same. Thus, the Condition No.3 in the memo of compromise stands satisfied and no more amount is now due from the respondent to the appellant.

9. In view of the all above, this Second Appeal is allowed; the decree and judgment of the lower appellate court is set aside and there shall be a decree in terms of the compromise memo. The compromise memo shall form part of the decree. It is also decreed that in the event if any of the parties committing breach, the aggrieved can approach this Court for appropriate relief, in this Second Appeal itself. This is agreed by the learned Counsel on the either side. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

tsi/gya



To

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1. The Additional District Judge-cum-FTC-IV, Ponneri

2. The District Munsif, Ponneri.

+ 1 cc to Mr.P.V.Muralidharan, Advocate Sr.17689

+ 1 cc to Mr.N.Anand Venkatesh, Advocate Sr.17273

S.A.No.83 of 2015
and
M.P.No.1&2 of 2015

KK(CO)
Eu 22.05.15