IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 2930 of 2013
&
M.P. No. 1 of 2013

1. Santhakumar
2. Shanmuga Vadivu ..Appellants

Vs.

1. Saravana Balaji
2. Akila Madeswari
3. Ponnusamy
(R3 is given up)(died)
4. Chinnadurai
5. P. Murugan
6. M. Varadappan
7. K. Kuzhandaivelu
8. R. Lakshmanan
9. P. Sakthivel
10. D. Jayabalan
11. A.P. Venkatachalam
(R4 to R11 impleaded as party respondents vide order of Court dated 12.03.2015 made in M.P. No. 1 of 2015 in C.M.A. No. 2930 of 2013) ..Respondents

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 02.07.2012 passed in A.S. No. 27 of 2012 on the file of Principal District Court, Salem, setting aside the judgment and decree dated 28.06.2011 passed in I.A. No. 444 of 2010 in O.S. No. 91 of 2010 on the file of Sub Court, Sankagiri.

For Appellants :: Mrs.R. Meenal

For Respondents:: Mr.P. Kannan Kumar for R1 and R2
R3 is given up
Mr.D. Shivakumaran for R4 to R11

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by defendants 3 & 4 in O.S. No. 91 of 2010 aggrieved over allowing of the appeal in A.S. No. 27 of 2012 by judgment and decree dated

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02.07.2012, which was filed by the plaintiffs in O.S. No. 91 of 2010, challenging the order of rejection of plaint dated 28.06.2011 passed in I.A. No. 444 of 2010 in the above said original suit.

2. The suit in O.S. No. 91 of 2010, on the file of Sub Court, Sankagiri, was filed by respondents 1 and 2 herein as plaintiffs for partition as against the appellants herein and two others. In the said suit, I.A. No. 444 of 2010 was filed by the appellants herein and two others to reject the plaint. By order dated 28.06.2011, the said application was allowed. As against the same, A.S. No. 27 of 2012 was filed by the plaintiffs in the suit/respondents 1 and 2 herein before the Principal District Court, Salem and the Lower Appellate Court reversed the order of rejection of plaint passed by the Trial Court and restored the suit to file. Aggrieved over the said judgment, the present appeal has been preferred by defendants 3 and 4 in the suit.

3. When the matter is called today, the learned counsel appearing on either side would submit that the matter has been settled. During the pendency of the appeal, the third parties, who filed the impleading petition are said to have purchased the property from the 4th defendant and her mother 2nd defendant. Moreover, the purchasers are also said to have settled the issue with the plaintiffs/respondents 1 and 2 herein, which fact is also acknowledged by Mr.P. Kannan Kumar, learned counsel appearing for respondents 1 and 2 herein/plaintiffs in the suit. Mr.K.V. Muthuvisagan, learned counsel appearing for the appellants/defendants 3 and 4 would submit that the matter has been settled and Mr.D. Shivakumaran, learned counsel appearing for respondents 4 to 11 also accepts the said fact.

4. All the parties are present before this Court and they have categorically stated that the matter has been settled. A joint memo of compromise dated 31.03.2015 signed by all the parties and countersigned by the respective counsel has been filed. In view of the joint memo of compromise, O.S. No. 91 of 2010, on the file of Sub Court, Sankagiri, stands dismissed as settled out of Court and the Civil Miscellaneous Appeal is disposed of in terms of the joint memo of compromise. The joint memo of compromise shall form part of the order. No costs. Connected M.P. Is closed.

(Joint Memo of Compromise xerox copy of the enclsoed)

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Sub Court, Sankagiri
2. The Prl. Dist. Court, Salem.

+ 1 cc to Mr.D. Shivakumaran, Advocate Sr.33485
+ 1 cc to Mrs. R. Meenal, Advocate Sr.33691
+ 1 cc to Mr.P.Kannan Kumar, Advocate Sr.33794

C.M.A. No. 2930 of 2013

JSV(CO)
Eu 22.07.15

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