

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.11.2016

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

S.A.No.890 of 1997

and

CMP.No.13127 of 2016

Usha

.. Appellant

Versus

1.Bhanumathi

2.Arulmigu Kasi Viswanathaswamy temple
by its Hereditary Trustee
Vishwanatha Gurukkal
S/o.Muthiah Gurukkal
Otha Theru, Myladuthurai. .. Respondents

Prayer: Petition filed under Section 100 of the Civil Procedure Code to set aside the judgment and decree as made in A.S.No.87 of 1996 dated 24.03.1997 on the file of the Additional Subordinate Judge, Mayiladuthurai reversing the judgment and decree made in O.S.No.821 of 1994 dated 26.07.1996 on the file of the Additional District Munsif, Myladuthurai.

For Petitioner : Mr.Srinath Sridevan

For R1 : Mr.A.Muthukumar

JUDGMENT

This Second Appeal is arising out of the suit filed for injunction restraining the respondents herein from distrubing the peaceful possession of the plaintiff. Admittedly, the ground belongs to the second respondent-temple, wherein the contesting parties namely, the plaintiff and the first defendant claiming right over the super structure.

2. Now the plaintiff, who is the appellant herein and the first defendant, who is the first respondent herein have entered into a comprmise and filed CMP.No.13127 of 2016 to record the compromise entered between them on 22.07.2006. The compromise deed dated 22.07.2006 is also annexed along with the CMP.No.13127 of 2016 admitting the ownership of the land to the Temple. The parties have entered into a compromise in respect of the super structure alone and their right to enjoy the land

appurtenant to the super structure. Since the second respondent, who is the land owner is not a party to the compromise memo, this application to record the compromise is allowed without prejudice to their right and interest in the suit property, at the request of the contesting parties namely the first respondent and the appellant.

3. In view of the order passed in CMP.No.13127 of 2016, without prejudice to the right and interest of the temple, the Second Appeal is disposed of recording the compromise entered into between the plaintiff and the first defendant. The terms of compromise shall form part of decree. No order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rm

To

1. The Additional Subordinate Judge, Mayiladuthurai.
2. The Additional District Munsif, Myladuthurai.

3 The Record Keeper
VR Section, High Court, Madras

+1cc to Mr.Srinath Sridevan, Advocate, S.R.No.65689
+1cc to Mr.A. Muthukumar, Advocate, S.R.No.65358

rp(CO)
md(22/02/2017)

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