

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.08.2016

Coram:

The Hon'ble Mr.Justice **M.M.SUNDRESH**

C.S.No.710 of 2015 and A.No.3664 of 2016

S.Vedhanayagam

Plaintiff

Vs.

1. Mrs. Jayanthi Mathivanan

2. Mrs. Nalini Velpari

3. Mr.Shivaji

4. Mrs.Geetha Karunanidhi ...

Defendants

The suit has been filed under Order VII Rule 1 of Code of Civil Procedure and Order IV Rule 1 of Original Side Rules of the High Court of Judicature at Madras, for a judgment and decree:

(a) to pass preliminary decree for partition of the suit properties by metes and bounds and grant the possession of the 1/5th share of the suit schedule A property to the Plaintiff;

(b) to pass preliminary decree for partition of the suit properties by metes and bounds and grant the possession of the 1/4th share of the suit schedule B & C properties to the Plaintiff;

(c) for appointment of an Advocate Commissioner to divide the property by metes and bounds;

(d) for a permanent injunction restraining the

defendants, their men, agent or any other persons on behalf of the defendants from alienating the suit properties in any manner or by creating any kind of encumbrance till such partition by metes and bounds is effected;

(e) for a permanent injunction restraining the defendants from preventing the Plaintiff from entering and occupying and living and enjoying over the first floor premises in the suit schedule-A of the property till a partition by metes and bounds is effected; and for costs.

For Plaintiff : Mrs.Susanna Prabhu

For Defendants: Mr.T.Sundaranathan

Judgment

The suit has been laid for the following reliefs:

(a) to pass preliminary decree for partition of the suit properties by metes and bounds and grant the possession of the 1/5th share of the suit schedule A property to the Plaintiff;

(b) to pass preliminary decree for partition of the suit properties by metes and bounds and grant the possession of the 1/4th share of the suit schedule B & C properties to the Plaintiff;

(c) for appointment of an Advocate Commissioner to divide the property by metes and bounds;

(d) for a permanent injunction restraining the defendants, their men, agent or any other persons on behalf of the defendants from alienating the suit properties in any manner or by creating any kind of encumbrance till such partition by metes and bounds is effected;

(e) for a permanent injunction restraining the defendants from preventing the Plaintiff from entering and occupying and living and enjoying over the first floor premises in the suit schedule-A of the property till a partition by metes and bounds is effected; and for costs.

2. When the matter is taken up for hearing today, learned counsel appearing for the respective parties submitted that the matter has been resolved. A Joint Memo duly signed by the parties and attested by the respective counsel was also filed enclosing a Memorandum of Family Settlement duly signed by the parties and attested by the Notary Public.

3. Accordingly, it has been agreed between the parties as under:-

"(1) The aforesaid recitals shall form the integral part of this document.

(2) The immovable property admeasuring about 1.5 Acre, WAREHOUSING LAND with buildings measuring about 20,000 sq. ft., situated in Door No. 7-1-54, Dindukal Main Road, also known as JOTHI MALL, in Paravai Village, Dindukal District along with the buildings thereof and more particularly described in **Schedule - Vedhanayagam** hereunder, shall vest absolutely to the ownership, possession and enjoyment of the aforesaid Mr.S.Vedhanayagam - the 1st party of the 'Compromising Parties of the First Part' hereof;

(3) The aforesaid Mr.S.Vedhanayagam - 'the 1st Party of the Compromising Parties of the First part herein', shall also be paid Rs. Two Crores (Rs.2,00,00,000/-) in cash, for his absolute use and the same shall be paid by the aforesaid Mrs.Jayanthi Mathivanan - 'the 5th Party of the Compromising Parties of the First Part herein;

(4) The said Mr.S.Vedhanayagam - 'the 1st Party of the Compromising Parties of the First Part herein', will continue to be the sole owner of the Property at No.6B, First Cross, II Main Road, Mariyal Nagar, Reddiar Palayam, Pondicherry, 10., as this property was

purchased by his parents for him to have, to hold and dispose as he deems fit without interference and claims from any of the parties to this Settlement / Family Arrangement.

(5) The immovable properties comprising land and building admeasuring an extent of 1 Ground and 755 sq. ft. and situated in Survey No. 3739/1 part, Plot No.87, Door No. Old No.7, New No.6, in 3rd Cross Street, Seethammal Colony, Alwarpet, Chennai-600 018., and another property comprising land and building admeasuring an extent of 5013 sq. ft. in R.S.No.3956/2, Plot No.9, Door No.146, Greenways Road, Kesavaperumalpuram, R.A. Puram, Chennai - 600 028, which are more particularly described as ITEM-A and ITEM-B respectively, in

Schedule - Jayanthi hereunder, shall vest absolutely to the ownership, possession and enjoyment of the aforesaid Mrs. Jayanthi Mathivanan, the 5th party of the 'Compromising Parties of the First Part' hereof;

(6) The aforesaid Mr.S.Sivaji - the 2nd Party of the 'Compromising Parties of the First part' hereof, shall be paid an amount of Rs.50,00,000/- (Rs. Fifty Lakhs only) more

particularly described in **Schedule - Sivaji** hereunder and the said amount shall be paid by Mrs. Jayanthi Mathivanan in the form of Fixed Deposit for a Term of Five Years in an account to be opened in his name for the above purpose.

(7) The aforesaid Mrs. Geetha Karunanidhi - the 3rd Party of the 'Compromising Parties of the First Part' hereof, shall be paid an amount of Rs.10,00,000/- (Rs. Ten Lakhs only) in cash, more particularly described in **Schedule - Geetha** hereunder and the said amount shall be paid by Mrs. Jayanthi Mathivanan - 'the 5th Party of the compromising parties of the First Part herein'.

(8) The said Geetha Karunanidhi - 'the 3rd Party of the Compromising Parties of the First Part herein' being the sole surviving legal heir of her husband (Late) Mr. S. Karunanidhi, will be the complete and absolute owner of the immovable property at Plot No. 60, (Regn. No. 149/1986) Natham Road, Iyer Bungalow Area, Madurai admeasuring 9 cents & 326 sq. feet which was purchased for and in the name of S. Karunanidhi by his parents and thus she will continue to hold the above property absolutely

and dispose as she deems fit without any interference and claims from any of the parties to this Settlement/ Family Arrangement.

(9) The aforesaid payments of Rs.2,00,00,000/- to Mr. S.Vedhanayagam, Rs.50,00,000/- to Mr.S.Sivaji and Rs.10,00,000/- to Mrs. Geetha Karunanidhi shall be made by the aforesaid Mrs. Jayanthi Mathivanan within a period of two months from the date of signing this Memorandum of Family Settlement at Chennai. The aforesaid Mrs. Nalini Velpari will not be given any movable property or cash from the assets of the Late Mrs. Jothi and Mr. N.S. Shanmugavadivel as agreed mutually, and she by signing this agreement agree that she will not hencforth or on any future day be claiming any part of the property in **Schedule - Estate** or challenge any of the settlement of money with or without property made to 1st, 2nd, 3rd and 5th Party of the Compromising Parties of the First Part herein;

(10) All the parties of this Agreement, by this Settlement Memo, state that they will not make any other or further claims either on the Estate of the Late S.Jothi or on any property

that has been settled by this Settlement Memo and jointly waive their rights to make any claims either on the properties herein or any part thereof. Further all the parties of this Settlement, also waive their rights to approach any Court of Law to obtain any Orders and either against each other or against any of the Compromising Signatories and / or the Consenting Signatories and state that they, hereby agree not to make any further claims in any court of Law either in India or in any other country bearing jurisdiction of the same.

(11) That all the children of the parties of the First Part are listed as Consenting Parties of the Second Part and by their confirming this Settlement, they are accepting the terms of this Settlement both on their own behalf and also on behalf of their respective parents and state that they will not make any claim henceforth to any of the properties mentioned therein. On the Completion of the Settlement of the properties and the transfer of the monies therewith, the position of Jayanthi Mathivanan as the executor of the estate of (Late) Mrs.

S.Jothi will cease to exist and any will of

(Late) Mrs. S.Jothi - oral, written or otherwise - will automatically terminate / cease to exist and the said Mrs. Jayanthi Mathivanan will be free from all the obligations of the said Will / Wills and as none of the terms of the will, will continue to survive any further. The said Mrs. Jayanthi Mathivanan shall not make any monthly payment to any person as has been agreed by the parties of the First part herein and as provided under the Will dated 09.08.2010 and such monthly payments shall cease from the date of the Payment as per this settlement.

(12) In view of this settlement, the aforesaid Mr. S.Vedhanayagam - the 1st party of the 'Compromising parties of the First Part' shall file this Memorandum of Family Settlement in the court upon due execution of the same by all the parties and finally withdraw his civil suit in C.S.No.710/2015 which is currently pending on the file of the Hon'ble Madras High Court at Chennai., immediately, upon completion of all the commitments and handing over of his share of the Property and monies therewith in accordance with this Memorandum of Settlement.

(13) The Parties of both the parts mutually agree, consent, decide and decide that they shall not have any claims whatsoever over the schedule properties hereunder and as the said Wills of (Late) Mr. N.S.Shanmugavadivel and (Late) Mrs. S.Jothi are superseded by this family settlement, the parties hereof, further mutually agree, consent, decide and declare that no right or liability would arise against any property or any party herein, in any manner whatsoever.

(14) The parties of both 'Compromising Parties of the First part' and the 'Consenting Parties of the Second Part' mutually and cordially agree, decide, declare and undertake that they, either individually or jointly with one another in any manner, shall not make any claim or stake on the schedule properties on the basis of said Wills of Mr. N.S. Shanmugavadivel and Mrs. S. Jothi or by way of succession or inheritance in any manner under them.

(15) The parties of both 'Compromising Parties of the First part' and the 'Consenting Parties of the Second Part' both individually and jointly and mutually and cordially agree,

decide, and declare that there are no other movable or immovable properties belonging to the said Mr.N.S.Shanmugavadivel and Mrs. S.Jothi.

(16) This Memorandum of Family Settlement shall first be signed by the aforesaid Mr.Sudharshan and Mr.Sughirdhana, sons of Mr.Velpari, along with their mother the aforesaid Mrs. Nalini Velpari and also by Mrs. Aishwarya Lakshmi, wife of Mr.V.Prasanna Kumar and the daughter of Mr.Raj Mathivanan and duly witnessed and Notarized in USA at the place of their respective residence in USA.

(17) Upon receiving the signed and notarized Memorandum of Family Settlement as above, this Memorandum of Family Settlement shall be signed by the other parties at Chennai in the presence of one another and also in the presence of two witnesses.

(18) The parties of both parts unanimously agree, consent and declare that the Mutual Understanding as recorded in this Memorandum of Family Settlement has been arrived, after mutual discussions and after understanding the entire facts and knowledge of the aforesaid

Wills, only in the interest of well being and in the best interests of each other and thus without any fear or favour or coercion or undue influence of any sort in any manner over any person and the said Understanding is only reduced into writing vide this Memorandum of Family Settlement.

(19) Upon due completion and fulfilment of this settlement, the parties hereto and each of them doth hereby acquit, release and discharge the other and others of any sums, liabilities and other things due and payable to each of them by the other or others and agree that they do not have any claim or demand equitable or otherwise in to, over and upon the properties, except in the manner and to the extent as mentioned herein above and shall not forever raise any condition or claims against them or any of them and shall not raise any dispute whatsoever in relation thereto and they also hereby record that they and each of them have agreed to recognise and accept the other and others as the absolute owners of their respective properties as has been allotted to them herein

above.

(20) The parties of both the parts hereto, further record that they have agreed that the respective share in the properties allotted to them as recorded herein above shall be their respective absolute property and / or rights of the respective parties and their respective heirs, executors, administrators, assigns shall have absolute authority to enjoy, enter into and upon their respective properties and enjoy the same, without any obstruction or hindrance of other or others of them or under them whether in trust or otherwise and shall be entitled to have, hold, use and enjoy the properties and / or rights, so allotted for ever freely, clearly and absolutely.

(21) The parties of both the parts hereto, further agree that the respective allottees shall be entitled to mutuate the revenue, municipal and other records of their respective properties and dispose of or deal with their respective rights and interests in the properties allotted to him / her or them in terms of this family arrangement without any

consent of the other or others.

(22) The parties of both the parts hereto hereby covenant with each other that they have entered into this Settlement out of their own free will and agree to comply with and accept the above stated family arrangement without any objection whatsoever.

(23) The parties of both the parts hereto further agree and covenant with each other that they shall execute all further and necessary documents writings, deeds, agreements and all other assurances to give true and proper effect to the aforesaid arrangement."

4. The parties who are also present before this Court have reiterated the same and submitted that they have indeed signed the Memorandum of Settlement and therefore a decree can be in terms thereof.

5. In such a view of the matter,

(a) there shall be a decree in terms of the Memorandum of Settlement dated 10.05.2016 which form part and parcel of the decree.

(b) It is also agreed that in the event of any other parties to the Memorandum of Settlement not complying with these terms, the other parties can workout the remedy in the manner known to law for its due execution. No costs. Consequently, A.No.3664 of 2016 and O.A.Nos. 925 to 927 of 2015 are closed.

sd/.M.M.S.J
12.08.2016

//Certified to be a true copy//

Dated this the day of 2015.

S.s/06.09.2016

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.

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