

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2016

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Second Appeal No.478 of 2012

and

M.P.No.1 of 2012

1. Vadivel Naicker
2. Ranganathan
3. Loganathan
4. V.Shanmugam

...Appellants/Defendants 1 to 4

-Vs-

1. Kasi Ammal
2. M.Thangavelu
3. M.Manoharan
4. Aayi Ammal
5. Suryakanthi
6. A.Selvi
7. A.Anbarasu
8. A.Sakthivel
9. Minor A.Arulmozhi
(rep by next friend mother Surya kanthi)
10. Malliga
11. Mannu
12. Arumugam
13. Perumal
14. Kishore Kumar
15. Saraswathi
16. N.Thirunavukkarasu
17. B.Ilayaraja
(R17 impleaded vide order of Court
dt.26.11.2014 made in M.P.1/2014)

..Respondents/Plaintiffs
1 to 13 and
Defendants 5 to 7

Appeal filed under Section 100 of C.P.C. against the judgment and decree dated 12.11.2011 made in A.S.No.3 of 2011 on the file of the District Judge, District Court No.II, Kancheepuram confirming the judgment and decree dated 22.11.2010 made in O.S.No.133 of 2006 on the file of Subordinate Judge, Kancheepuram.

For Appellants: Mr.S.Raghavan

For Respondent: Mrs.Kasi Ammal -R1-Party in Person
Mr.Y.Jyothis Chandra for R2 to R13
R14 to R16 - given up
Mr.M.Sriram for R17

J U D G M E N T

It is represented that the contesting parties in the above Second Appeal have settled the dispute by entering into compromise. Today, a joint compromise memo dated 30.08.2016 signed by the appellants and respondents 1 to 13 and 17 is filed before this Court. It is stated that the respondents 14 to 16 are not necessary parties and they are given up in this Appeal. Learned counsel for the appellants has also made an endorsement to that effect.

2. The appellants 1 to 3 and the respondents 1 to 13 and 17 are personally present before this Court who are identified by their respective counsels. They have signed the compromise memo, so also their respective counsels. Thus, the parties pray for disposal of the Second Appeal in terms of the compromise memo.

3. The terms of the compromise memo reads as follows:

(i) The appellants 1 to 3 on the one side and the respondent No.17 representing as purchaser from the respondents 1 to 13 on the other side are each entitled to 50% in the 1st item of the suit property, as the respondents 1 to 13 sold their share in the 1st item of the suit property for valid consideration received to the 17th respondent under a Registered Sale Deed dated 11.06.2012, and the said sale deed is hereby confirmed.

(ii) The 17th respondent will be entitled for the eastern half share of the

1st item of the suit property as purchased by him as per the boundaries mentioned in the above registered sale deed dated 11.06.2012 executed by the respondents 1 to 13 and as described in detail hereunder. The appellants 1 to 3 shall be entitled for the western half share of the 1st item of the suit property as described in detail hereunder. The appellants 1 to 3 and the 17th respondent are put into separate possession of their respective shares. The appellants and their agents and successors in interest, shall not interfere with the peaceful possession and enjoyment of the eastern half share of the 17th respondent and the 17th respondent, his agent and successors shall not interfere with the possession of the appellants 1 to 3 in respect of the western half share. None of the parties shall have any other claim over the other.

(iii) All the encumbrances created over the 1st item of the suit property such as (i) the settlement deed dated 09.08.2006 vide Doc. No.7167/2006 as executed by the 1st defendant/Late. Vadivel Naicker in favour of his sons i.e., the appellants 1 to 3 herein on the file of Sub Registrar, Walajabad, and (ii) the registered sale agreement dated 05.11.2008 vide Doc. No.8402/2008 as executed by appellants 1 to 3 in favour of Mr.Sivaraman on the file of Sub-Registrar, Walajabad, etc. shall be restricted to the western half share of the 1st item of the suit property allotted to the shares of appellants 1 to 3 and the same will not have any bearing on the eastern half of 1st item of the suit property allotted to the 17th respondent.

(iv) The suit filed by the Appellants and 1st respondent Kasi Ammal together after filing of the second appeal in O.S.No.201/2012 on the file of Sub Court, Kanchipuram, for injunction against the respondents herein shall stand dismissed without cost.

(v) As per the above terms and conditions, a final decree may be passed by this Hon'ble Court in the above Second Appeal and the terms of the Compromise shall form part of the decree.

6. It is respectfully submitted that the parties herein most humbly pray that this Hon'ble Court may be pleased to record the above terms of compromise and pass a final decree in respect of the 1st item of the plaint schedule property and to dispose the second appeal as withdrawn as regards the 2nd item of suit property, without costs and thus render justice.

4. Learned counsel appearing for the respective parties submitted that the above Second Appeal may be disposed of by recording the above compromise and in terms of the above compromise memo.

5. Considering the above stated facts and circumstances, the Second Appeal is disposed of in terms of the above compromise memo which shall form part of the record and decree. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The District Judge,
District Court No.II,
Kancheepuram.

2. The Subordinate Judge,
Kancheepuram.

3. The Section Officer,
V.R.Section,
High Court, Madras.

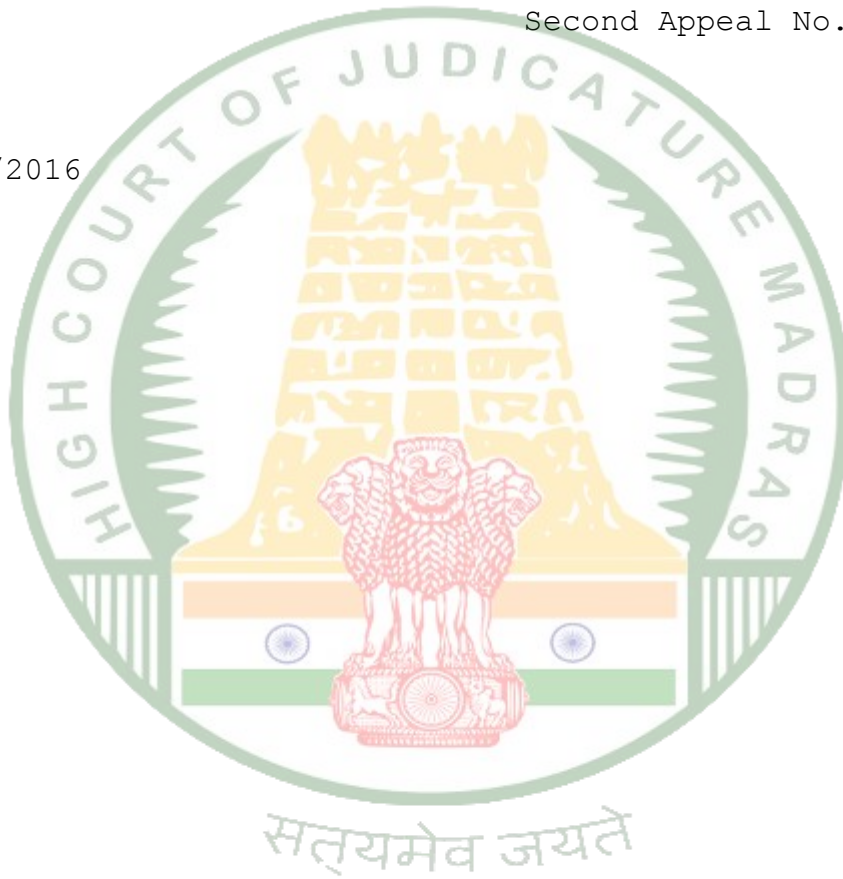
+2cc to Mr.Y.Jyothish Chander, Advocate Sr.48968

+1cc to Mr.Raghavan, Advocate Sr.49381

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srg 06/09/2016



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