

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 18.04.2016

CORAM

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

Second Appeal No.355 of 2016 and
C.M.P.No.6393 of 2016

1.R.Mariappan
2.R.Suresh
3.P.Balarama Pillai ...Defendants 2,3,4/Appellants 1 to 3/
Appellants 1 to 3

Versus

1.S.Lalitha
2.Magesh
3.Jothi
4.Chitra ... Defendants 24 to 27/Appellants 4 to 7
Respondents 1 to 4

5.D.Siva
6.Shanthi
7.Girija
8.Prabhu
9.Mahalakshmi ... Plaintiffs 1 to 5/Respondents 1 to 5/
Respondents 5 to 9

10.Punniavathi
11.Pachaiammal
12.Rajagopal
13.Lallitha
14.Kumuda
15.Suseela
16.Murali
17.Srinivasan
18.Thiruvengadam
19.Shankar
20.Pappu
21.Raja
22.Susi
23.Shanthi

.. Defendants 14 to 23 & 28 to 31/
Respondents 6 to 15 & 16 to 19/
Respondents 10 to 19 & 20 to 23.

Prayer: This Second Appeal has been filed under Section 100 C.P.C., against the judgment and decree dated 14th October 2013 made in A.S.No.42 of 2013 on the file of the learned Principal

District Judge, Tiruvallur confirming the judgment and decree dated 28.03.2013 made in O.S.No.256 of 1984 on the file of the learned Subordinate Judge, Poonamallee.

For Appellants : Mr.G.V.Udayakumar

For Respondents 5 to 9 : Mr.P.Sukumar

JUDGMENT

This second appeal has been directed against the judgment and decree dated 14.10.2013 and made in A.S.No.42 of 2013, on the file of the learned Principal District Judge, Tiruvallur, confirming the decree and judgment dated 28.03.2013 and made in O.S.No.256 of 1984, on the file of the learned Subordinate Judge, Poonamallee. The respondents 5 to 9 are the plaintiffs in the suit in O.S.No.256 of 1984, whereas, the appellants are the defendants 2, 3 & 5 in the said suit.

2.As it transpires from the records, the respondents 1 to 5 had filed the suit in O.S.No.256 of 1984, on the file of the learned Subordinate Judge, Poonamallee, as against the appellants/defendants 2, 3 & 5 as well as against the remaining respondents herein seeking the relief of declaration to declare their title to the properties described in the plaint schedule and to deliver vacant possession; to direct the defendants to pay the plaintiffs past profits of Rs.6,000/- for three years proceeding the same; to direct for an enquiry to pay the plaintiffs future profits from the date of plaint till the date of delivery of possession under Order 20 Rule 12 C.P.C., and to set aside the sale deed dated 15.11.1966 executed by Damodaran Gramani etc., in favour of Ramasami Nadar. That suit was decreed as prayed for with cost.

3.Challenging the said judgment and decree, the appellants/defendants 2,3 & 5 along with defendants 24 to 27, had preferred an appeal in A.S.No.42 of 2013 before the learned Principal District Judge, Tiruvallur. That appeal was dismissed confirming the decree and judgment of the trial Court.

4.Questioning the correctness of the judgment of the First Appellate Court, now, the appellants/defendants 2, 3 & 5 are before this Court with this second appeal.

5.When this second appeal is taken up for hearing today, Mr.G.V.Udayakumar, learned counsel appearing for the appellants and P.Sukumar, learned counsel for the respondents 5 to 9 have jointly submitted that the dispute between the appellants/defendants 2,3 & 5 and the respondents 5 to

9/plaintiffs has been settled amicably at the intervention of their well wishers and the elderly people of their family and they have also submitted that the terms of the compromise has been reduced into writing and accordingly, they have also filed a Joint Memorandum of Compromise, dated 12.04.2016.

6.It is manifest from the Joint Memorandum of Compromise that the appellants/defendants 2,3 & 5 had approached the respondents 5 to 9/plaintiffs for purchase of their respective portion of land at Rs.1,800/- (Rupees One Thousand and Eight Hundred only) per sq.ft., of land taking in to consideration that already a sale deed was executed by the ancestors of the plaintiffs and that they are in possession of the land by putting up houses and living there for more than 40 years even though the guideline value at Rs.2,700/- (Rupees Two Thousand and Seven Hundred only) per sq.ft., of land for which the plaintiffs had demanded to pay atleast Rs.2,500/- (Rupees Two Thousand and Five Hundred only) per sq.ft., of land and ultimately on the advise of this Court, both the parties had agreed to fix the land cost at Rs.2,062/- (Rupees Two Thousand and Sixty Two only) per sq.ft., of land which for Ac.0.05 cents of land works out at Rs.44,97,222/- which is rounded to Rs.45,00,000/- and accordingly they have entered into the Memorandum of compromise.

7.The appellants/Defendants 2, 3 & 5 have agreed to purchase their respective portions as detailed in the schedule hereunder at the rate of Rs.2,062/- (Rupees Two Thousand and Sixty Two only) per sq.ft., of land for which the respondents 5 to 9 who are the plaintiffs in the suit have agreed to sell the said land on the following terms and conditions:-

“(i)The total sale consideration in respect of item No.1 of Schedule mentioned properties is at Rs.45,00,000/- (Rupees Forty Five Lakhs only) out of which the 1st appellant has paid a sum of Rs.15,00,000/- (Rupees Fifteen Lakhs only) as advance to the respondents 5 to 9 at the rate of Rs.3,00,000/- (Rupees Three Lakhs only) each by cheques and agreed to pay the balance amount of Rs.30,00,000/- in two monthly installments i.e. Rs.15,00,000/- (Rupees Fifteen Lakhs only) by 15th May 2016 and the remaining sum of Rs.15,00,000/- (Rupees Fifteen Lakhs only) to the respondents 5 to 9 in equal proportion on or before 30th June 2016 for purchase of the land mentioned in item No.1 of the schedule.

(ii)The total sale consideration in respect of item No.2 of Schedule mentioned properties is at Rs.45,00,000/- (Rupees Forty Five Lakhs only) out of which the 1st & 2nd appellants have paid totally a sum of Rs.15,00,000/- (Rupees Fifteen Lakhs only) in

equal proportion i.e., the 1st appellant paying Rs.1,50,000/- and the 2nd appellant paying Rs.1,50,000/- by cheques as advance to the respondents 5 to 9 and agreed to pay the balance amount of Rs.30,00,000/- in two monthly installments i.e. Rs.15,00,000/- (Rupees Fifteen Lakhs only) by 15th May 2016 and the remaining sum of Rs.15,00,000/- (Rupees Fifteen Lakhs only) to the respondents 5 to 9 in equal proportion on or before 30th June 2016 for purchase of the land mentioned in item No.2 of the schedule.

(iii)The total sale consideration in respect of item No.3 of Schedule mentioned property is at Rs.45,00,000/- (Rupees Forty Five Lakhs only) out of which the 3rd appellant has paid a sum of Rs.15,00,000/- (Rupees Fifteen Lakhs only) as advance to the respondents 5 to 9 at the rate of Rs.3,00,000/- (Rupees Three Lakhs only) each by cheques and agreed to pay the balance amount of Rs.30,00,000/- in two monthly installments i.e. Rs.15,00,000/- (Rupees Fifteen Lakhs only) by 15th May 2016 and the remaining sum of Rs.15,00,000/- (Rupees Fifteen Lakhs only) to the respondents 5 to 9 in equal proportion on or before 30th June 2016 for purchase of the land mentioned in item No.3 of the schedule.

(iv)The appellants have agreed to complete the sale on or before 30th June 2016 and obtain the sale deeds in their favour from the respondents 5 to 9 herein (Plaintiffs) for which the respondents 5 to 9 agree.

(v)The parties hereby agree that they will not have any claim against each other when once the sale consideration is fully paid and the sale deeds are executed and registered in favour of the appellants herein."

8.This Court has considered the submissions made by the learned counsel appearing on behalf of both sides and this Court has also interated with the appellants/defendants 2, 3 & 5 as well as the respondents 5 to 9/plaintiffs in the suit and they have also agreed and submitted that the second appeal might be disposed of in accordance with the terms of the Joint Memorandum of Compromise.

9.In view of all the above facts, this Court finds that since, the appellants/defendnats 2, 3 & 5 and the respondents 5 to 9/plaintiffs have settled their disputes in terms of the Joint Memorandum of Compromise amicably, at the intervention of their well wishers and the elderly people of their family, this Court finds that keeping this second appeal pending will not give any fruitful result and therefore, this Court endorses the view of the learned counsels for both parties to dispose of the

second appeal in terms of the Joint Memorandum of Compromise.

10. In the result, the second appeal is disposed of in terms of the Joint Memorandum of Compromise dated 12.04.2016 however, there shall not be no order as to cost. The Joint Memorandum of Compromise, dated 12.04.2016, jointly filed by the appellants/defendants 2,3 & 5 and the respondents 5 to 9/plaintiffs shall form part of the decree. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

jbm

To

1. The Principal District Judge,
Tiruvallur.

2. The Subordinate Judge,
Poonamallee.

+1 cc to Mr. G.V. Udayakumar, Advocate, sr.24117

+1 cc to Mr. P. Sukumar, Advocate, sr.24118

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kra 21.04.2016

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