

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

C.M.S.A.No.31 of 2011

And

C.M.S.A.M.P.No.97 of 2016

J U D G M E N T:

This Civil Miscellaneous Second Appeal under Section 100 of the Code of Civil Procedure, 1908 read with Section 372 of the Indian Succession Act, 1956, is filed assailing the order dated 13.05.2010 of the learned Principal District Judge, Nalgonda, passed in C.M.A.No.9 of 2010.

2. The facts as stated before this Court are as follows:

Mangilipalli Lingaiah worked as a Head Master in Boinapally Primary School, Kanagal Mandal, Nalgonda District. He died on 28.07.2002. There was a dispute relating to his death benefits between the parties to the appeal. Originally, O.P.No.9 of 2002 was filed under Section 372 of the Indian Succession Act by the 1st respondent, Mangilapalli Parvathamma (hereinafter, '1st respondent') before the Court of Junior Civil Judge, Nalgonda, for grant of a succession certificate. In the said OP she claimed that she is the wife of the deceased and she, therefore, may be declared as a successor of the deceased, Mangilipalli Lingaiah, and she may be empowered to receive the death-cum-retirement gratuity, family pension benefits including monthly pension and also seek compassionate appointment. The said OP was originally allowed on 23.09.2004 in favour of the 1st respondent, M.Pullamma and Nagamani, respondents 6 and 7 herein. However, by orders dated 02.07.2007, this Court allowed C.R.P.No.4484 of 2006 filed by the 1st respondent and remitted the matter to the file of the learned Junior Civil Judge, Nalgonda. Even after remand, the Court of the learned Junior Civil Judge, Nalgonda, by order dated 01.10.2007, directed issuance of succession certificate in favour of the 1st respondent, M.Pullamma and Nagamani, respondents 6 and 7 herein. Against the said order dated 01.10.2007 C.M.A.No.1 of 2008 and C.M.A.No.9 of 2010 came to be preferred before the Court of the learned Principal District Judge,

Nalgonda, by the 1st respondent and the appellant herein respectively. Both the said appeals were dismissed. Therefore, the present CMSA 31 of 2011 is filed by Mangilipalli Anjamma, the 1st respondent in the OP.

3. Heard *Sri G.Dhananjai*, learned counsel for the appellant, *Sri Venugopal Reddy Goddindla*, learned counsel for the 1st respondent and *Sri V.Ramesh*, learned counsel for the respondents Nos.7 and 8.

4. When the matter is taken up, it is represented that the 6th respondent, M.Pullamma, who is the mother of the deceased died on 29.06.2010 leaving her only daughter, Gangula Parvathamma, and that the said Gangula Parvathamma, the 1st respondent-Mangilipalli Parvathamma, the 7th respondent-Mangilipalli Nagamani, and the appellant, Mangilipalli Anjamma have settled the matter out of Court. Therefore, CMSA M.P.No.96 of 2016 is filed to implead the said Gangula Parvathamma, as 8th respondent, she being the legal representative of the deceased 6th respondent-M.Pullamma. Accordingly, C.M.S.A.M.P.No.96 of 2016 is allowed and the proposed 8th respondent is permitted to come on record as party 8th respondent in the appeal.

5. C.M.S.A.M.P.No.97 of 2016 is filed by the appellant under Order XXIII Rule 1 of the Code requesting to dispose of the appeal in terms of the settlement reduced in the form of Memorandum of Compromise annexed to C.M.S.A.M.P.No.97 of 2016.

6. The appellant-Mangilipalli Anjamma, the 1st respondent-Mangilipalli Parvathamma, the respondents 7 and 8, Mangilipalli Nagamani and Gangula Parvathamma are present in person before the Court. They were identified by their respective counsel. This Court verified the identity proofs produced by the parties, the original Aadhar Cards. When examined, they have stated that they have voluntarily and without any force from any quarter, amicably settled the matter and that the terms of compromise are reduced into writing in the

form of Memorandum of Compromise filed before this Court and they are agreeable for the said terms.

7. As per the terms of the said compromise, all the monetary benefits including pensionary benefits up to September, 2016 shall be shared equally amongst Mangilipalli Anjamma-appellant, Mangilipalli Parvathamma-1st respondent and Mangilipalli Nagamani-7th respondent herein, and that the future monetary benefits, i.e., pension payable from the month of October, 2016 shall be equally shared by Mangilipalli Anjamma-appellant and Mangilipalli Parvathamma-1st respondent and that the 7th respondent-Mangilipalli Nagamani would be entitled to file an application before the authorities concerned seeking job on compassionate grounds in the Department of the deceased subject to her entitlement. The 8th respondent, though she is also a legal heir of the deceased, agreed not to claim any amounts or benefits. The other terms of settlement are stated in detail in the memorandum of compromise.

In the light of the above said developments, this Court is of the view that no further adjudication is warranted in this appeal.

8. In the result, C.M.S.A.No.31 of 2011 is allowed, subject to the terms of the settlement stated in the memorandum of compromise. The order impugned is set aside accordingly. The terms and conditions in the memorandum of compromise shall form part of this judgment and shall be binding upon the parties. Accordingly, C.M.S.A.M.P.No.97 of 2016 is ordered.

The Registry is directed to prepare a succession certificate as required under facts and law for being issued to the appellant, on deposit of required court fee stamps. In the circumstances, there shall be no order as to costs.

Pending miscellaneous petitions, if any, in this appeal shall stand closed.

31st October 2016
RAR

M. SEETHARAMA MURTI, J

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C.M.S.A.No.31 of 2011

31-10-2016