

THE HON'BLE SRI JUSTICE A.V. SESA SAI

AS.M.P.No.1606 of 2016

IN/AND

APPEAL SUIT No.304 OF 2010

ORDER:

AS.M.P.No.1606 2016, is an application filed under Order 23 Rule 3 of Civil Procedure Code praying to record the memorandum of compromise entered among the parties. The said memorandum of compromise entered into is enclosed along with the present application. The terms and conditions of the said Memorandum of Compromise read as under:

1. *"The plaintiffs admit and acknowledge that the registered partition deed dated 20.08.1989 executed in between the Defendants 1 to 4 in respect of plaint A to C schedule properties and also the oral partition of plaint D schedule house properties between Defendants 1 to 4 are as true, valid and binding on the plaintiffs.*
2. *In view of the above, the plaintiffs withdraw their claim in the suit for such reliefs in respect of plaint A to D schedule properties.*
3. *The plaintiffs also give up their claim in plaint F and G schedule properties.*
4. *The plaintiffs acknowledge and concede that plaint H schedule properties are self acquired properties of the 2nd defendant and that they have no right what so ever in the said properties. Hence the plaintiffs withdraw their claim in respect of plaint H schedule properties.*
5. *In view of the above both the parties agree to allow the above appeal to the extent of the claim of the plaintiffs in respect of plaint A to D, F, G and H schedule properties and to set aside the decree of the lower court in respect of plaint A to D, F, G and H schedule properties.*
6. *Hence both parties agree to allow the above*

appeal by setting aside the decree and judgment of the lower court in respect of all the plaint schedule properties except plaint E schedule property.

- 7. The plaintiffs are the absolute owners of plaint E schedule property at Kurakallapalli village, S.No.47 Ac.2.20 guntas and S. No. 48/1 Ac.0.17 cents, total Ac.2.37 cents and the Defendants have no claim over the said property.*
- 8. The 2nd defendant agreed to convey the property (which is not in the plaint schedule) i.e. R.S. No. 54/1 Ac.0.93 cents and R.S.No.43/2 Ac.0.52 cents in total Ac. 1.43 cents to the plaintiff No. 2 by executing registered gift deeds.*
- 9. The 2nd defendant (1st appellant) also agreed to convey absolute title in favour of the plaintiff No.2 by way of a registered settlement deed in respect of Ac.0.41 cents in S.No.47/1C of Kurakallapalli Village, which is part of item No. 1 of plaint H schedule property. Similarly the 2nd defendant shall execute a registered settlement deed in respect of Ac. 0.83 cents in S.No.38/5 of Kurakallapalli village, which is part of item No.1 of plaint H schedule in favour of Plaintiffs 1 and 2 reserving life interest in himself and also his wife Smt.Swarna Latha with a condition to enjoy the said property during their respective life times without any right of alienation giving vested remainder right in the said property in favour of the plaintiffs.*
- 10. The plaintiffs also agreed that they shall execute a relinquishment deed relinquishing their undivided interest in favour of the 2nd defendant (1st appellant) in respect of half share in plaint A schedule property that fell to the 2nd defendant in the registered partition deed dated 20-8-1989 or to execute any registered document conveying their undivided interest in the said property in favour of their father who is the*

2nd defendant (1st appellant) herein.

11. *In consideration of giving up claim by plaintiffs in favour of F and G schedule articles, the 2nd defendant agrees to give 10 tulas gold and Rs.1,00,000/- to 1st plaintiff at the time of this compromise and another 10 tulas of gold and Rs.1,00,000/- to 2nd plaintiff at the time of his marriage. The plaintiffs shall receive the same towards full satisfaction of their claim in respect of F and G schedule properties.*
12. *Both the parties are entitled to execute this decree and get the necessary conveyance deed/deeds pursuant to the above terms of compromise by executing this compromise decree lawfully, in case the other party fails to fulfill the same.*
13. *The plaintiffs admit and acknowledge that they have no other claims what so ever against the defendants.*
14. *The plaintiffs agree that they shall have no right or claim in respect of death or retirement amoluments of the 2nd defendant and that they shall exclusively belong to the 2nd defendant or to his wife Swarna Latha as the case may be.”*

2. Appellants 1 to 3 are present before this Court and they are identified by the learned advocate appearing for the appellants. On behalf of appellant No.4, a special vakalat is filed by the learned counsel for the appellant enclosing a copy of the medical certificate dated 08.08.2016, issued by Dr.S.Ramesh Chandra Kumar, Civil Assistant Surgeon, Assistant Professor of Orthopaedics, RMC/Government General Hospital, Kakinada, stating that appellant No.4 is suffering from Chronic Osteoarthritis of both knees with pain and advised rest and not to weight bear for one month for relief of pain.

3. Respondents 1 and 2 are also present before this Court and they are identified by the learned counsel for the respondents.

4. In view of the same, A.S.M.P.No.1606 of 2016 is allowed, recording the compromise as mentioned above. Therefore, there shall be decree in accordance with the memorandum of compromise filed along with the application. Office is directed to draft the decree in terms of the memorandum of compromise. The decree of the court below stands modified as per the present compromise decree.

5. In view of the compromise decree, the Appeal Suit No.304 of 2010 also stands disposed of. Miscellaneous petitions pending consideration, if any, stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

18.08.2016
SS

Note: issue C.C. in four days.

B/o. SS