

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.07.2017

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Second Appeal No.1490 of 1986

1.Arumugham (died) ..Appellants 1 & 2/Defendants 2 & 3
2.Jaya
3.A.Ramesh
4.A.Balaji ...Appellants 3 & 4

(Appellants 3 & 4 brought on record
as LRS of the deceased Ist Appellant
as per order in C.M.P.Nos.319 to 322
of 2015 dated 19.07.2017)

Vs

1.Marakkal (died) ..Ist Respondent/Plaintiff
2.Rama Naidu (died)
3.Ammami Ammal
4.Rani*
5.Saravanan
6.Baskar
7.Selvam (died)
8.Lakshmi
9.Sarala
10.Saranya ...Respondents 2 to 10

(RR2 to 8 brought on record
as LRS of the deceased Ist Respondent
as per the order in C.M.P.Nos.601
to 603 of 1996 dated 20.11.1997)

(RR9 & 10 brought on record
as LRS of the deceased 7th Respondent
as per the order in C.M.P.Nos.319 to 322
of 2015 dated 19.07.2017)

Prayer:- Second Appeal has been filed under Section 100 of C.P.C., against the judgment and decree dated 28.10.1985 in A.S.No.239 of 1984 on the file of the learned District Judge, Salem reversing the Judgment and decree dated 13/7/1984 and made in O.S.No.849/1980 on the file of II Additional Subordinate Judge, Salem.

For Appellants : Mr.P.Mathivanan

For RR.1, 2 & 7 : Died

For RR.3 to 6 & 8 : Ms.Srividhya

For RR9 & 10 : Not ready notice

JUDGMENT

Aggrieved by the judgment and decree dated 28.10.1985 in A.S.No.239 of 1984 on the file of the learned District Judge, Salem, the defendants 2 & 3 in O.S.No.849 of 1980 on the file of the learned II Additional Subordinate Judge, Salem, are before this Court, with this Second Appeal.

2.Today, all the parties are present before this Court. It is submitted by the learned counsel for the appellants and the learned counsel for the respondents 3 to 6 & 8 that the matter has been settled between the parties and they have arrived at a compromise. A compromise memo signed by the parties concerned and the learned counsel for both parties has been filed before this Court.

3.This Court enquired the parties and they admitted that they have entered into the compromise. This Court satisfied that the said compromise reached between the parties is genuine and the parties have entered into the compromise voluntarily. The said compromise memo reads as follows:-

"1.It is submitted that the 1st respondent Marakkal has filed a suit in O.S.No.849 of 1980, on the file of Sub Court, Salem praying for Specific Performance of the suit agreement dated 19.03.1979 entered into between her and the first defendant namely Elappa Naidu. The appellants 1 & 2 were arrayed as Second and third defendants in the said suit on the allegations that have purchased a portion of the suit property, subsequent to the suit agreement. The trial Court by its judgment and decree dated 13.07.1984 was pleased to

decree the suit, so far as the eastern portion of the suit property is concerned in favour of the Appellants 1 & 2. The first respondent has filed an appeal in A.S.No.239 of 1984, on the file of District Judge, Salem. The learned District Judge was pleased to reverse the judgment and decree of the trial Court by its judgment and decree dated 28.10.1985. Aggrieved by the same, the appellants 1 & 2 have preferred the present second appeal before this Hon'ble Court.

3.I respectfully submit that the first respondent died intestate on 06.06.1995 leaving behind her husband, sons and daughters, who arrayed as respondents 2 to 8 in the second appeal. The husband of Marakkal viz., Ramanaidu died and his Lrs already on record as respondents 3-8. Selvam, son of Marakkal viz., (who is the 7th respondent) was died intestate on 03.07.1998 leaving behind his widow and daughter were brought on record as his legal heirs in the above second appeal. The 1st appellant Arumugam died intestate on 31.01.2013, leaving behind his widow, two sons who are arrayed as Appellants herein.

4.It is respectfully submit that on attempts made by various well wishers of the family of the appellants and respondents, the parties hereunder agree to divide the suit properties as mentioned hereunder. The suit property is comprised in Survey No.66/6A, as per new division S.No.66/91, and measuring 940 s.ft. The appellants herein and the respondents have agreed and consented to remove the superstructure put up on the suit property and the appellants herein are entitled to take away the wooden rafters, doors, windows, tiles and other fittings put up thereon. It was further agreed that the appellants herein are shall take the western side portion of 303 sq.ft of the suit land and the respondents shall take eastern side portion of 637 sq.ft of the suit land.

The appellants herein have no right in the schedule of properties allotted to the

respondents herein. Similarly, the respondents have no right in the schedule of properties allotted to the appellants herein.

The parties can apply to the concerned authorities for transfer of electricity service connection and patta transfer in their names in respective of their share. "

4.In view of the above, the Second Appeal is disposed of in terms of the above compromise. No costs.

(Here Enclosed Xerox copy of Memo of Compromise)

Sd/-
Assistant Registrar(CCC)
dt.13/10/2017

Corrected as per letter dated 11.01.2018
in respondent counsel and made herein

Sd/-
Assistant Registrar(CS-V)
dated 02/02/2018

//True Copy//

Sub Assistant Registrar

To

1.The District Judge,
Salem.

2.The II Additional Subordinate Judge,
Salem.

+1cc to Mr.P.Mathivanan, Advocate sr.53393

To be substituted to
the order already
despatched
on 28/11/2017

Second Appeal No.1490 of 1986

VD(co)
ss(28/10/2017)
EU 02/02/2018

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