

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2017

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

S.A.No.349 of 2017
and
C.M.P.No.12549 of 2017

Balamurganand @ Ananth ... Appellant/Appellant/
2nd defendant

vs.

1. Mahendiran ... Respondent/1st respondent/plaintiff
2. T.Kannagi
3. T.Balabharaniya@Iniyan ... Respondents/Respondents/Defendants

Second Appeal filed under Section 100 C.P.C. against the Judgment and Decree dated 31.12.2008, passed in A.S.No.34 of 2006, on the file of learned District Judge, Tiruvannamalai, Tiruvannamalai District, confirming the Judgment of the learned Subordinate Judge, Arani, dated 23.06.2006, made in O.S.No.36 of 2004.

For Appellant : M/s.G.Sumithra
For Respondents : Mr.V.Manisekaran (R1)

Mr.T.Balabharaniya@Iniyan (R3)
appeared in person

J U D G M E N T

This Second Appeal has been filed against the Judgment and Decree dated 31.12.2008, passed in A.S.No.34 of 2006, on the file of learned District Judge, Tiruvannamalai, Tiruvannamalai District, confirming the Judgment of the learned Subordinate Judge, Arani, dated 23.06.2006, made in O.S.No.36 of 2004.

2. The first respondent herein has filed a suit in O.S.No.36 of 2004, on the file of Subordinate Judge, Arni, seeking for recovery of money. The Trial Court, on consideration of oral and documentary evidence has decreed the suit, as prayed for. Aggrieved over the same, the second

defendant has preferred an appeal in A.S.No.34 of 2006, on the file of learned District Judge, Tiruvannamalai, Tiruvannamalai District. The Lower Appellate Court, also by its Judgment dated 31.12.2008, has confirmed the Judgment of the Trial Court. Being aggrieved by the same, the present appeal has been preferred by the second defendant.

3. When the matter is listed for admission and taken up for hearing, the learned counsel appearing for the appellant, as well the first respondent would submit that they have arrived at settlement, and a Memo of compromise to that effect has been filed today. As per the terms of the compromise, the appellants had paid a sum of Rs.1,93,925/- (One Lakh Ninety three thousand nine hundred and twenty five only) with interest in satisfaction of the decree, in full quit, by way of Demand Draft No.092731 dated 13.10.2017, drawn on HDFC Bank, to the respondent. The said Memo of compromise is recorded and there will be a decree in terms of the above compromise, which are as follows:

"1. The 1st respondent/Plaintiff filed suit in O.S.No.36 of 2004 on the file of Sub-Court, Arani. The said suit was decreed on 23.06.2006. The appellant had filed appeal in A.S.No.34 of 2006, on the file of District Judge, Tiruvannamalai. The said appeal was dismissed on 03.12.2008. Challenging the same the present Second Appeal has been filed by the appellant.

2. The appellant is paying the sum of Rs.1,93,925/- by way of Demand Draft D.D.No..092731 dated 13.10.2017, drawn on HDFC Bank, Broadway, Chennai to the 1st respondent/Plaintiff being the amount decreed in the suit together with interest as awarded by the Trial Court alongwith cost which is the amount due as on to-day. The 1st respondent has received the said sum towards the full and final satisfaction of the decree made in the above suit. The 1st respondent has agreed to withdraw the E.P.No.59 of 2010, on the file of Sub-Court, Arani.

It is therefore prayed that this Hon'ble Court may be pleased to record the Memo and render justice."

2. In the result this Second Appeal is disposed of in terms of the compromise. As per the above Memo of Compromise, the Execution Petition already filed in E.P.No.59 of 2010 on the file of Sub Court, Arni is hereby terminated. The Memo of Compromise shall form part of the decree. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

arr

To

1. THE DISTRICT JUDGE,
TIRUVANNAMALAI.

2. THE SUBORDINATE JUDGE,
ARANI.

COPY TO

THE SECTION OFFICER,
V.R. SECTION HIGH COURT,
MADRAS.

Judgment in
S.A.No.349 of 2017

VD(CO)
TR(20/12/2017)

सत्यमेव जयते
WEB COPY