

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

AND

THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

A.S.No.440 of 2014,
Cross Objection No.106 of 2014
and
C.M.P.No.440 of 2017

1.Kesava Perumal
2.K.Dhanalakshmi

..Appellants/Defendants 1 to 2/
Respondent 1 nd 2 in Cross objection.

Vs

1.Alamelu Mangai

..1st Respondent/Plaintiff/Cross Objection

2.P.Senguttuvan

..2nd Respondent/Plaintiff/Cross Objection

3.D.Aarumugam

..3rd 4th Respondents in Cross Objection

Prayer:- This Appeal has been filed under Section 96 C.P.C.,
against the judgment and decree of the learned First Additional
District Judge, Cuddalore in O.S.No.20/2012 dated 28.03.2013.

For Appellant in CMA
and for 1st 2nd Respondent
in Cross Objection : Mr.K.Azhagu Raman

For R.1 in CMA
and for Cross Objector
in Cross Objection : Mrs.R.Meenal

R3 in cma of R4 in
Cross Objection : No Appearance

R2 in CMA of R3 in
Cross Objection : Not ready in Notice

JUDGEMENT

(Judgment of the Court was delivered by S.Nagamuthu.J)

The appellants herein are the defendants 1 and 2 in O.S.No.20 of 2012 on the file of the learned First Additional District Judge, Cuddalore. The first respondent is the plaintiff in the suit and the respondents 2 & 3 are the defendants 3 & 4 in the suit. The first respondent filed the said suit for partition, separate possession and for allotment of her share in the suit properties. The suit was decreed as prayed for. As against the same, the appellants who are the defendants 1 & 2 have come up with this First Appeal. The defendants 2 & 3 are the purchasers of a portion of the suit property from the first appellant/first defendant. The first respondent filed Cross Objection No.106 of 2014.

2.During the pendency of this appeal, the matter was referred by this Court for mediation. The Assistant Registrar of the Tamil Nadu Mediation and Conciliation Centre, Madras has submitted a mediation report before this Court under File No.246/2016 dated 26.04.2016. A perusal of the report shows that before the Mediation and Conciliation Centre, the appellants and the first respondent appeared and settled the issues between them. To mark the said compromise reached between the parties, a memorandum of understanding has been entered into between the appellants and the first respondent. The same has also been enclosed along with the report of the Mediation Centre.

3.When that be so, now, the appellants have filed C.M.P.No.440 of 2017 requesting this Court to record the memorandum signed by the appellants and the first respondent and to pass a final decree in this First Appeal.

4.Today, when the matter is taken up for hearing, the appellants appeared along with their learned counsel. The first respondent also appeared along with her counsel. The respondents 2 & 3 have not made appearance as the properties purchased by them have not been included in the compromise. The parties are before us. On enquiry, they have informed that a compromise has been reached between them voluntarily and they have agreed for the said compromise. We are satisfied with the fact that the compromise is real and therefore, we are inclined to accept the same and to pass final decree in accordance with the compromise and in accordance with the memorandum of understanding. Hence, we are inclined to allow C.M.P.No.440 of 2017 and the present First Appeal.

5.In the result, C.M.P.No.440 of 2017 is allowed; the First

Appeal in A.S.No.440 of 2014 is allowed; Cross Objection No.106 of 2014 is dismissed; the decree and judgment of the trial Court is modified and there shall be a decree in terms of the memorandum of understanding dated 26.04.2016. The said memorandum of understanding shall form part of the decree. There shall be no order as to costs.

Xerox copy of Memorandum attached

sd/
Assistant Registrar

/true copy/
Sub Assistant Registrar

jbm

To

The First Additional District Judge,
Cuddalore.

+1cc to Mr.K.Azhagu Raman, Advocate SR.No.2677

A.S.No.440 of 2014

RSY(CO)
GN(15/02/2017)



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