

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2017

CORAM

THE HON'BLE MS. INDIRA BANERJEE, CHIEF JUSTICE
AND

THE HON'BLE MR.JUSTICE M.SUNDAR

O.S.A.No.99 of 2017

L.BALAKUMARASAMY
REP. BY HIS POWER OF ATTORNEY AGENT,
L.GNANAMBA DEVI
NO.14, RADHAKRISHNA NAGAR
SECOND CROSS STREET
THIRUVANMIYUR, CHENNAI - 41 ... Appellant

Vs.

- 1 N.SELVARAJULU CHETTY TRUST
REP. BY ITS TRUSTEES
1. DR. H.B.N. SHETTY I.AS. RETD.
2. N.C. RAGHAVACHARI
3. R. KRISHNAMOORTHY
- 2 S. SARVOTHAMAN, Adopted son of Somasundaram Chettiar
- 3 N RATHINAVELU
- 4 N NARAYANI
- 5 N SUMATHI
- 6 B JAYAKUMAR
- 7 J. GNANAPRAKASAM
- 8 S PADMANABHAN
- 9 MUNISHI NANDA
- 10 ASHYISH NANDA
- 11 S.V. BUILDERS
A PARTNERSHIP FIRM
CARRYING ON BUSINESS AT
11-A, THIRUVALLUVAR SALAI
THIRUVANMIYUR, CHENNAI 41.
- 12 J. ASHOKKUMAR
- 13 UMA K RAMANATHAN
- 14 VINAYA VAIDHYANATHAN
- 15 SAROJA DEVI
- 16 UMA PARVATHY

17 MAHENDRAKUMAR BOTHRA
18 RAMACHANDRAN
19 P.S. ALAMELU
20 S.ANNAPOORNI
21 M.P. MOIDU
22 C.P. NASINA MOIDU
23 S. SRIRAM
24 LAKSHMI SRIRAM
25 C.KAMALAM

26 LAKSHMI AMMAL TRUST
REP. BY ITS MANAGING TRUSTEE, S VENKATARAMAN
OFFICE AT NO.18, Dr.RADHAKRISHNA NAGAR
MAIN ROAD, THIRUVANMIYUR,
CHENNAI.
M.RAMACHANDRAN (DIED)

27 KULJEET SINGH BHATIA
28 DR.ASHA CHAKRAVARTHI
29 SRINVATSAN
30 ANURADHA
MEENAKSHI AMMAL (DECEASED)

31 GURUMOORTHY NATARAJAN
Smt Meenakshi Ammal (Deceased)
32 V.MURUGESAN
33 M.ANGAMMAL
34 R.MANOCHAR

... Respondents
(Respondents 2 to 33 were set ex parte
in C.S., hence they are given up in OSA)
(34th Respondents Impleaded as per Order dated 3.12.13 in A.No.
4794 of 2013)

PRAYER: Appeal under Order XXXVI Rule 1 of the Original Side
Rules read with Clause 15 of the Letters Patent against the
order and decretal order of learned Single Judge dated 3.3.2016
in A.No.5829 of 2014 in C.S.No.259 of 1997.

For Appellant : Mr.Tranquebar Dorai Vasu
for R.T. Duraisamy

JUDGMENT

(Delivered by M.Sundar,J.)

This is an intra court appeal. This intra court appeal is
directed against an order dated 3.3.2016 made by a learned

Single Judge of this Court in A.No.5829 of 2014, dismissing an application seeking a direction that the plaintiff should consider an offer (offer in respect of Plot No.14 forming part of suit schedule property) given by the appellant/32nd defendant and extend the benefit to the appellant/32nd defendant, as was done in the case of defendants 12 and 13, by order dated 19.3.2009 (this order is in respect of Plot No.20 forming part of suit schedule property).

2. It is to be noted that this application was taken out by the 32nd defendant in the main suit. In other words, the 32nd defendant in the main suit is the appellant before us.

3. The only pivotal point as urged and the only point which has also been canvassed in the hearing at the bar before us is that a similar order was passed in favour of defendants 12 and 13, being order dated 19.3.2009 made in C.S.No.259 of 199, which is at page 29 of the typed set of papers. It was reiterated by the learned counsel before us that an order that was passed in favour of defendants 12 and 13 (according to him) should be passed in favour of the appellant/32nd defendant also.

4. We have perused the order dated 19.3.2009.

5. We find from the order that the learned Single Judge has merely recorded a memorandum of compromise inter se parties, on the same being presented before the Court with a prayer to record the same and make it an order of the Court. Therefore, on the face of it, we find the prayer in the application itself to be misconceived as the Court cannot compel any party to a litigation to enter into a compromise. We have also noticed that while the earlier compromise was in 2009, the present application has been taken out in 2014, five years later.

6. Owing to all that have been stated supra, we find no infirmity in the order of the learned Single Judge which has been called in question before us. We are in agreement with the view of learned Single Judge that the parties cannot be compelled to enter into a compromise. Learned Single Judge has also held that Article 14 of the Constitution cannot be pressed into service in matters of this nature and we have no reason to disagree or interfere.

In the result, the appeal fails and is dismissed. No costs. Consequently, C.M.P.No.6809 of 2017 is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

sasi

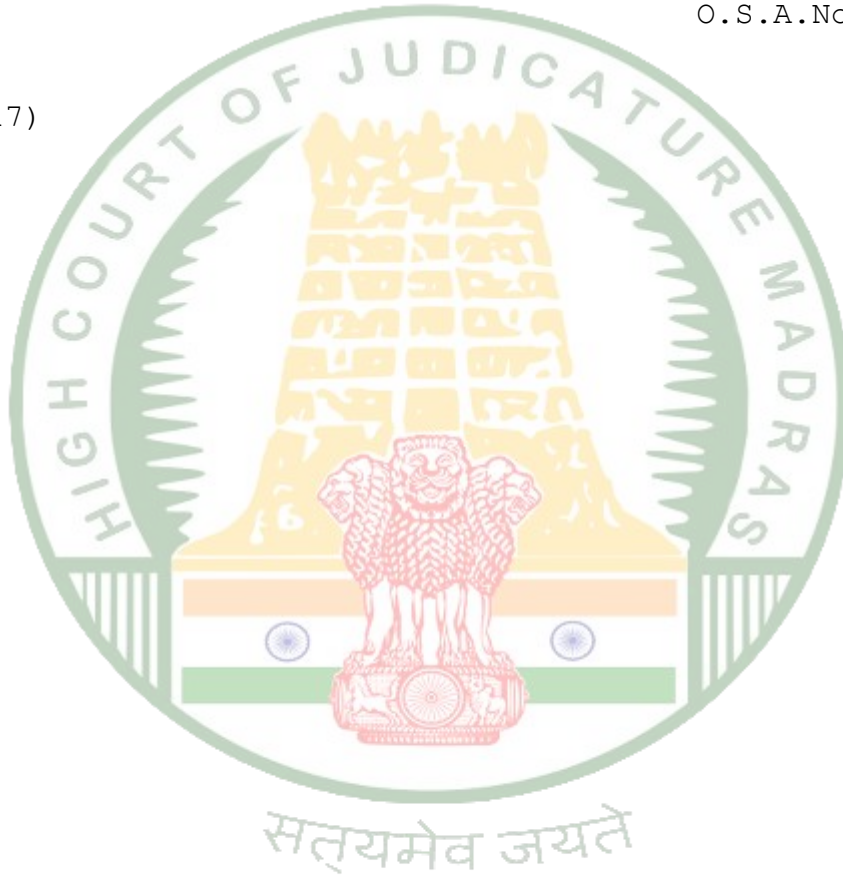
To

The Sub Assistant Registrar
Original Side
High Court, Madras.

+lcc to mr.R.T. Duraisamy, Advocate Sr. 24569

O.S.A.No.99 of 2017

RSI (CO)
VR(8/5/2017)



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