

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2017

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

C.S.No.81 of 2016
and A.No.820 of 2016

M. Sampath ... Plaintiff

Versus

1. N. Balachandar
2. Revathy
3. S. Nainee ... Defendants

Plaint filed under Order VII Rule 1 of C.P.C read with Order IV Rule 1 of Original Side Rules praying to pass a decree and judgment in his favour and against all the defendants (a) Declaring that the plaintiff is the absolute owner of the Schedule mentioned property, having acquired title to the same under a Settlement Deed dated 18.06.2001 with Doc.No.3920 of 2001, on the file of the Sub-Registrar of Sembium and consequentially directing all the defendants to remove the constructions in the Schedule property put up illegally by encroaching upon the same and order delivery of vacant possession of the Schedule property to the plaintiff by the defendants; (b) Consequentially also declaring the Deed of Cancellation of Settlement Deed dated 13.02.2004, registered as Doc.No.1155 of 2004 and also the Deed of Settlement dated 13.02.2004 with Doc.No.1156 of 2004, both registered on the file of Sub-Registrar of Sembium, as Null and Void and not binding on the plaintiff; and (c) directing the defendants to pay the plaintiff the entire costs of the suit.

For Plaintiff : M/s.Ramalingam and Associates

J U D G M E N T

The matter was referred to the Mediation. Before the mediation, by the efforts taken by the mediator Mr.A.J.Jawad, the parties have entered into a compromise and accordingly, a memo of compromise has been filed on 28.06.2017 which has been signed by the plaintiff and defendants.

"1. The plaintiff has filed the above suit seeking to declare that he is the absolute owner of the suit schedule property and consequently to direct all the defendants to remove the constructions put up on the suit schedule property and also to declare the Deed of Cancellation of Settlement dated 13.02.2004 with Doc.No.1155 of 2004 and also the Deed of Settlement dated 13.02.2004 with Doc.No.1156 of 2004 on the file of the Sub-Registrar of Sembium, as null and void.

2. The plaintiff states that the defendants have put up construction also on the portion of property for an extent of 261 sq.feet, in excess to the extent mentioned in the Settlement Deeds executed by father of the 2nd defendant in favour of 2nd defendant and the 1st defendant respectively,

where in the extent of 261 sq.feet ought to have jointly inherited by the plaintiff, the second defendant and their sisters, Mrs.N.Yogavathi, Mrs.G.Vijayalakshmi and Mrs.N.Vasanthi and younger brother Mr.M.Selvam legal heirs of Mr.S.Munusamy and that all of them are contemplating filing a suit of partition against the 2nd defendant in respect of that portion of the property inherited by them.

3. In the above suit filed by the plaintiff an application seeking for appointment of an Advocate Commissioner to inspect and note down the physical features after measuring the property with help of the Taluk Surveyor was filed and it is pending.

4. It is submitted that during the pendency of the suit the plaintiff and the defendants sought for an amicable settlement and this Hon'ble Court was pleased to refer the matter to Mediation Centre, the parties had jointly negotiated for an amicable settlement, which has culminated in a mutually consented final settlement, as recorded hereunder.

5. The defendants agree to pay a total sum of Rs.20 lakhs to Thiru.M.Sampath, Plaintiff, son of S.Munusamy which shall be shared among the legal heirs of S.Munusamy namely plaintiff's second elder sister Mrs.N.Yogavathi, first

younger sister, Mrs.G.Vijayalakshmi and second younger sister Mrs.N.Vasanthi and his younger brother M.Selvam and S.Vengaiya, son of M.Selvam as per the receipt dated 18.06.2017 in consideration of relinquishing all claims over property in owner ship, possession and enjoyment of the defendants situated at Madhavaram Thaluk, Kodungaiyur Village in survey No.125/1A/1D where in 3654 sqft, total extent of the property as per the sale deed No.5858 dated 16.12.81, and where in (02 ar and 89 sq.m) approximately 3210 sq.ft, the actual extent of the land in survey No.125/1A/1D as per the revenue records i.e. extract from the town survey land register issued by the Thasildar, Tondiapettai, Madras-3, CA No.1711/2004/SD/TR form No.58, 30th November 2004 respectively and finally recent survey made by office of Thasildar, Perambur Taluk, Chennai-11 and issued a certificate on the extract for the town survey land register CA No.152/2016 and copy of survey plan for TS No.139/4 dated 09.03.2016 respectively and it is accepted by the plaintiff Mr.M.Sampath and his son M.S.Rahul and 2nd defendant's sisters Mrs.N.Yogavathi, Mrs.G.Vijayalakshmi and Mrs.N.Vasanthi and brother Mr.M.Selvam and his son S.Vengaiya and they will not claim any right over the property in Survey No.125/1A/1D situated

in Madhavaram Taluk, Kodungaiyur Village which is owned, enjoyed and in continuous possession by the 1st and 2nd defendants by way of settlement deeds No.1156/2004 and 3136/1986 dated 13.02.2004 and 25.08.1986 respectively along with and the excess of small portion of the property for about 261 sq.feet as per the revenue records which are not covered under the settlement deeds duly executed by father of the 2nd defendant.

6. It is submitted that as per the terms of compromise the total sum of Rs.20 lakhs paid by the defendants shall be received by the plaintiff Mr.M.Sampath and his son Mr.M.S.Rahul, and his younger brother Mr.M.Selvam and his son Mr.S.Vengaiya, sisters Mrs.N.Yogavathi, Mrs.G.Vijayalakshmi and Mrs.N.Vasanthi as per the receipt dated 18.06.2017 and the above said persons nor their legal heirs have cause of action to sue the defendants regarding property in Survey No.125/1A/1D situated in Madhavaram Taluk, Kodungaiyur Village, bounded on the North side by Plot No.7, South side by plot No.13, Mr.G.Selvam House East side by M.M.D.A. development road West side by 14 ft width street.

7. The defendants paid the sum of Rs.20 lakhs as per

the receipt dated 18.06.2017 Mr.Sampath received a sum of Rs.8 lakhs by way of 3 cheques of cheque No.061056 dated 15.06.2017 of Bank of India, Kodungaiyur Branch, Chennai for a sum of Rs.6 lakhs, Cheque No.123422 dated 15.06.2017 of George Town Cooperative Bank Ltd., Kodungaiyur Branch for a sum of Rs.1 lakh, Cheque No.059925 dated 15.06.2017 of Federal Bank, George Town, Chennai for a sum of Rs.1 lakh, Mr.M.S.Rahul received a sum of Rs.4 lakhs by way of Cheque No.061057 dated 15.06.2017 of Bank of India, Kodungaiyur Branch, Chennai, Mr.M.Selvam received a sum of Rs.1 lakh by way of cash and his son Mr.S.Vengaiya received a sum of Rs.1 lakh by way of cash, Mrs.N.Yogavathi received a sum of Rs.2 lakhs by way of Chequ No.061058 dated 15.06.2017 of Bank of India, Kodungaiyur Branch, Chennai, Mrs.G.Vijayalakshmi received a sum of Rs.2 lakhs by way of Cheque No.061059 dated 15.06.2017 of Bank of India, Kodungaiyur Branch, Chennai and Mrs.N.Vasanthi received a sum of Rs.2 lakhs by way of cheque No.061060 dated 15.06.2017 of Bank of India, Kodungaiyur Branch, Chennai and the parties to the receipt dated 18.06.2017 shall not have any claim whatsoever over the property in ownership, possession and enjoyment of the defendants and they concede to their right

to the property in Survey No.125/1A/1D situated in Madhavaram Taluk, Kodungaiyur Village, bounded on the North side by Plot No.7, South side by Plot No.13, Mr.G.Selvam House East side by M.M.D.A. development road west side by 14 ft width street.

8. Consenting to the above terms, a separate receipt dated 18.06.2017 was signed by the plaintiff and his son Mr.M.S.Rahul undertakes to sign as and when he come down to India from Russia as per his email communication dated .06.2017 sent from his email id msrahul6399@gmail.com to the 1st defendant's email id preethibala641@gmail.com and Mr.M.Selvam and his son Mr.S.Vengaiya and sisters Mrs.N.Yogavathi, Mrs.G.Vijayalakshmi, Mrs.N.Vasanthi all of them duly signed the above said receipt dated 18.06.2017 in presence of the witnesses and his Joint memo of compromise signed by the plaintiff as well as the defendants and filing the same before this Honourable Court along with the copy of the receipt dated 18.06.2017."

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2. Receipt in pursuance of the compromise memo has also been enclosed. Signatures have also been affixed over revenue stamps. There are also two witnesses to the compromise memo. Consequently, the suit is dismissed. The above said terms of

compromise are recorded. The Memo of Compromise shall form part of the decree. No Costs. The Plaintiff is entitled to return of entire Court fee, since the suit has been settled out of Court. Consequently, connected miscellaneous application is closed.

14.07.2017

Speaking / Non-speaking Order
Index : Yes/No

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C.V.KARTHIKEYAN, J.

srn/rsi



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