



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Wednesday, the Twenty Second day of February Two Thousand and Seventeen

PRESENT

The Hon`ble Mr.Justice S.S.SUNDAR

CMP(MD) No.1238 of 2017

IN

AS(MD) No.200 of 2007

1. Sulthan Beevi
2. Mohamed
3. Jamal Mohamed
4. Abdul Lathif
5. Naina Mohamed
6. Yusuf
7. Mumtaj
8. Hirunnisha
9. Hamsa Nagoor Meeral

... Petitioners/ Appellants

Vs.

V.A.M.K.Syed Ahamed

... Respondent/ Respondent

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to record the compromise effected through a registered deed dated 09.03.2012 between the parties and the settlement deeds dated 06.11.2015.

Prayer in A.S.(MD)200 of 2017:

Appeal Suit filed under Section 96 of Civil Procedure Code, to set aside the Judgment and Decree, dated 30.07.2007 passed in O.S.No.162 of 2004 on the file of the Additional District Judge Fast Track Court No.1 Tirunelveli

ORDER: This petition coming on for hearing upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.M.P.Senthil, Advocate for the petitioner/Appellant and of Mr. S.Balasubramanian, Advocate for the respondent the court made the following order:-

This petition is filed to record the compromise effected through a Registered Deed, dated 09.03.2012 between the parties and the Settlement Deeds, dated 06.11.2015.

2. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondent.

<https://hcservices.ecourts.gov.in/hcservices/>

3. The case of the appellants who are the petitioners in this application is that the parties have entered into a partition and



registered a Partition Deed, dated 09.03.2012 in which they have divided the suit properties by metes and bounds, in pursuant to the compromise reached among the parties. The partition is also in respect of the properties which are the subject matter of the present appeal. Pursuant to the partition, dated 09.03.2012, the parties have also acted upon and executed Settlement Deeds in fulfilment of their obligations under the compromise.

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4. This petition was objected by the sole respondent who is the plaintiff in the suit. The factual contentions regarding the compromise and Settlement Deeds referred to in the affidavit are not in dispute. However, the objection of the respondent/plaintiff is limited to the width of pathway referred to in the Partition Deed. As per the Partition Deed, while parties dividing the first schedule of the property, 10 feet pathway was left in common for all the petitioners and adjacent to the 10 feet pathway another pathway with a width of 5 feet was provided to the sole respondent. Though the petitioners were given joint right in respect of 5 feet pathway, the respondent/plaintiff was not given such right in respect of 10 feet pathway adjoining the properties allotted to them. Since the grievance of the respondent appeared to be reasonable, this Court also suggested the parties to make some alteration so that the respondent/plaintiff also will be given a right to enjoy 10 feet pathway along with the petitioners. It was suggested by the Court so that both the petitioners as well as the respondent can enjoy the 15 feet pathway in the first schedule as referred to in the Partition Deed and that the same shall be the common property of both the respondent and the petitioners.

5. After deliberations, the learned counsel for the petitioners reported that he was successful in persuading the petitioners to agree for the course suggested by the Court. The respondent and the petitioners therefore, have expressed their mutual agreement to treat both 10 feet pathway and 5 feet pathway as referred to in the Partition Deed as common to the petitioners and the respondent. The learned counsel has also reported that the Settlement Deed, dated 20.02.2017, has also been registered in terms of the suggestions of the respondent to treat the 15 feet pathway as common to all the parties, namely, the petitioners as well as the respondent. The learned counsel on either side also reported that this Court may treat the Settlement Deed, dated 20.02.2017 as part of record. The compromise between the parties as reflected and culminated by the Partition Deed, dated 09.03.2012 is recorded subject to the only modification in respect of 15 feet pathway that was left by the parties while dividing suit first schedule property. The registered Partition Deed, dated 09.03.2012, 5 Settlement Deeds, dated 06.11.2015 and the Settlement Deed, dated 20.02.2017 shall form part of record. It is further reported that the respondent has filed a final decree application in I.A.No.40 of 2007 before the lower Court.

6. In view of the compromise wherein the parties have divided the properties by metes and bounds, both the parties agreed that the final decree application is not necessary and that the same can be



treated as closed for the purpose of this appeal. The parties are entitled to their right as declared in the Partition Deed, dated 09.03.2012 and 5 Settlement deeds, dated 06.11.2015 and Settlement Deed, dated 20.02.2017 subject to the terms of this order. Hence, this petition is ordered.

The following copy of document filed shall for part of this order

1. Petition Deed dated 09.03.2017 (Annexure- I)
2. Five settlement Deed dated 06.11.2015 (Annexure-II)
3. Settlement Deed dated 20.02.2017 (Annexure-III)

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Additional District Judge,
Fast Track Court No.1, Tirunelveli.
(With Annexure - I,II,III)
2. The Section Officer, V.R.Section,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.M.P.Senthil, Advocate Sr.No.9988
+1cc to Mr.S.Balasubramanian, Advocate Sr.No.9940

PMU

VB/JC/SAR1/30.06.2017/3P/5C

ORDER DATED: 22.02.2017

ORDER

**CMP (MD) No.1238 of 2017
IN
AS (MD) No.200 of 2007**

Giving directions etc as
stated within.