



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.07.2017

CORAM:

WEB COPY

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

S.A(MD) No. 818 of 2014

and

M.P(MD)No.1 of 2014

1.S.Elangamani
2.P.Petchithati
3.P.Paul Abraham Chandrasekaran
... Appellants/Respondents/Plaintiffs 2 to 4

Vs.

1.Petchimuthu Pandian ..1st Respondent
2.S.Subbulakshmi
3.S.Vanaja
4.K.Murugan
5.M.Balasubramanian
6.M.Mala
7.M.Ravi
8.M.Kanaga ... Respondents/Appellants/Defendants 1, 4 to 10

PRAYER: Second Appeal is filed under Section 100 of Civil Procedure Code, against the Judgment and Decree, dated 09.04.2014 passed in A.S.No.50 of 2013, on the file of the Principal District Court, Tirunelveli, reversing the Judgment and Decree dated 15.03.2013, passed in O.S.No.77 of 2008 on the file of the Principal Sub Court, Tirunelveli.

For Appellants : Mr.V.Meenakshi Sundaram
for Mr.D.Nallathambi

For Respondents : Mr.R.Manimaran

JUDGMENT

The above second appeal arises against the Judgment and Decree, dated 09.04.2014 passed in A.S.No.50 of 2013, on the file of the Principal District Court, Tirunelveli, reversing the Judgment and Decree dated 15.03.2013 passed in O.S.No.77 of 2008 on the file of the Principal Sub Court, Tirunelveli.

2.The plaintiffs filed a suit in O.S.No.77 of 2008 on the file of the Principal Sub Court, Tirunelveli, for partition and separate possession of 2/3 share in the suit properties.

3.The trial Court decreed the suit. However, on appeal, the same was dismissed.



4. Today, all the appellants and the respondents were present before this Court personally and they have entered into a joint compromise and settled the issue amicably between them. It is verified from them that they are all agreeable for the terms of compromise mentioned in the memorandum of compromise, dated 12.07.2017. As all the parties are agreed for the same, there will be a decree in terms of the memo of compromise. The said joint compromise memo and sketch are as follows:-

JOINT COMPROMISE MEMO SUBMITTED BY THE APPELLANTS AND RESPONDENTS IN THE SECOND APPEAL

The main Second Appeal was filed by Plaintiffs 2 to 4 as against the Judgment and Decree dated 09.04.2014 passed in A.S.No.50 of 2013 on the file of Principal District Court, Tirunelveli reversing the Judgment and Decree dated 15.03.2013 passed in O.S.No.77 of 2008 on the file of Principal Sub Court, Tirunelveli.

The main suit in O.S.No.77 of 2008 was filed by Late. Paul Shanmugavelu along with the Appellants herein as against the Respondents herein as Defendants for the relief of partition of 2/3rd share in the suit schedule property/ schedule mentioned property hereunder. The suit was decreed by a Judgment and Decree dated 15.03.2013 and Preliminary Decree of 2/3rd share in the suit schedule property was granted in favour of Appellants herein. As aggrieved over the same, the Defendants 1, 4 to 10 preferred Appeal suit in A.S.No.50 of 2013 before Principal District Court, Tirunelveli and by a Judgment and Decree dated 09.04.2014 the Appeal was allowed and the Decree in the suit was reversed.

As against Judgment and Decree dated 09.04.2014 in A.S.No.50 of 2013 (Principal District Judge, Tirunelveli), the Plaintiffs 2 to 4 as Appellants preferred this Second Appeal. On 19.11.2014 notice was ordered to the Respondents herein and an order of Interim Injunction regarding alienation of the suit property was granted. Pending the main Second Appeal, the parties to the litigation entered into a compromise out of their own will in order to solve the issue and the terms of compromise are as follows:-

a) It is agreed between the parties to allot Western side 2 Acre 44 Cents out of entire 5 Acres 17 Cents in Ayan Punja S.No.329, Itteri Village, Melapalayam Sub Registrar, Jurisdiction, Palayamkottai Registration District to the Respondents 1 to 8 herein/ Defendants and the Plaintiffs 2 to 4 have no objection for the same and they will not claim any right whatsoever in the above said portion allotted to the Respondents herein.

b) The Respondents 1 to 8 herein/ Defendants are entitled to be in possession of the portion (Western side 2 Acre 44 Cents) shown as "A" in the schedule mentioned property as described in the attached plan.



c) It is agreed between the parties to allot Eastern side 2 Acre 44 Cents (shown as portion "B") but of entire 5 Acres 17 Cents excluding Manimuthar Channel portion (29 Cents shown as portion "C") in Ayan Punja S.No.329, Itteri Village, Melapalayam Sub Registrar Jurisdiction, Palayamkottai Registration District to the 3rd.Appellant herein/ 4th Plaintiff (Mr.P.Paul Abraham Chandrasekaran) and the Respondents herein/ Defendants have no objection for the same and they will not claim any right whatsoever in the above said portion allotted to the Appellants herein.

d) The other two Plaintiffs / Appellants 1 & 2 herein (S.Eiangamani and P.Petchithai) are having no objection for allotment of Eastern side 2 Acre 44 Cents (shown as portion "B") to 3rd Appellant /4th Plaintiff and Western side 2 Acre 44 Cents to the Respondents herein /Defendants.

e) The 3rd Appellant/ 4th Plaintiff are entitled to be in possession of the portion (Eastern side 2 Acre 44 Cents, shown as portion "B") in the schedule mentioned property as described in the attached plan.

f) The Appellants 1 & 2 herein (S.Eiangamani and P.Petchithai) will not claim any right in the petition mentioned properties.

g) To show clear division of suit schedule property between the parties, a rough plan is attached with this compromise memo and the same is part and parcel of this compromise memo.

h) The respective parties will take appropriate steps for survey and sub division of Ayan Punja S.No.329 as described hereunder.

i) The above said terms of compromise is agreed between the parties without any coercion and out of their own will.

It is therefore prayed that this Hon'ble Court may be pleased to record this Joint Compromise Memo and pass appropriate orders in the main Second Appeal in S.A.(MD) No.818 of 2014 on the file of this Hon'ble Court and thus render justice.

SCHEDULE OF PROPERTY

Palayamkottai Registration District, Melapalayam,
Sub Registrar Jurisdiction, Itteri Village, Ayan PUnja
S.No.329 - 5 acres 17 cents.

North : S.NO.330/B

East : S.No.328



5. In view of the memorandum of compromise entered into between the parties, this Second Appeal is disposed of in terms of the joint compromise memo. The memorandum of compromise and the sketch plan shall form part and parcel of the decree. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CSI)

/True Copy/

Sub-Assistant Registrar

To

() JOINT COMPROMISE MEMO XEROX COPY IS ENCLOSED HEREWITH**

1. The Principal District Judge,
Tirunelveli.

2. The Principal Subordinate Judge,
Tirunelveli.

+One cc to Mr. R. Manimaran, Advocate, SR.No.65028

+One cc to Mr. D. Nallathambi, Advocate, SR.No.65050

KM/PS
RL/5C/4P/SKN/RSK/SAR1/3/8/2017

S.A (MD) No.818 of 2014

12.07.2017