

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

C.C.C.A.M.P. No.537 OF 2017

IN/AND

C.C.C.A. No.130 OF 2002

AND

CROSS-OBJECTION (S.R.) No.20174 OF 2003

COMMON JUDGMENT:

C.C.C.A.M.P. No.537 of 2017 is filed by respondent No.1 - defendant No.1, under Order - XXIII Rule - 1 of Code of Civil Procedure 1908, seeking to record the compromise in view of the Memorandum of Compromise dated 06.08.2016 signed by both parties as well as their counsel.

2. The present appeal is preferred under Section 96 of the Code of Civil Procedure, 1908, assailing the judgment and the decree dated 28.03.2002 in O.S. No.572 of 1999, a partition suit, passed by the learned XI Additional Chief Judge, City Civil Court (Fast Track Court), Hyderabad.

3. Cross-Objection (S.R.) No.20174 of 2003 is filed by the defendants in the above suit.

4. The appellant herein is plaintiff whereas respondent Nos.1 and 2, who filed cross-objection, are defendant Nos.1 and 2 respectively, in the aforesaid suit before the trial Court.

5. For the sake of convenience, the parties are referred to as arrayed in the suit before the trial Court.

6. It appears, during pendency of the present appeal, defendant No.2 died.

7. Memo, in USSR No.2563 of 2017 dated 23.10.2017, is filed stating that the deceased respondent No.2 viz., Smt P. Sita Mahalakshmi, is no other than the mother of the plaintiff and defendant No.1 and that they are her only legal-heirs. The same is recorded.

8. Though the petition in C.C.C.A.M.P. No.537 of 2017 is filed by defendant No.1, the same is submitted by his power of attorney Ayyagari Subba Rao. A photostat copy of the power of attorney dated 04.08.2017, executed by defendant No.1 is also filed as an annexure. The plaintiff also signed the compromise petition, but submitted through Special Vakalath holder Sri S.V. Sundara Rajan, who is also her counsel in the present appeal preferred by her.

9. Sri S.V. Sundara Rajan, who is the Special Vakalath Holder of the plaintiff and also her counsel, and Sri Ayyagari Subba Rao, power of attorney of defendant No.1 and his counsel Sri D. Ravishankar Rao, are present, and defendant No.1 is identified by his counsel.

10. The sum and substance of the Memorandum of Compromise is that the parties would abide by the judgment and the decree dated 28.03.2002 passed by the learned XI Additional Chief Judge, City Civil Court (Fast Track Court), Hyderabad.

11. On being questioned, both parties i.e., the plaintiff through her Special Vakalath Holder (counsel on record) and defendant No.1 through his power of attorney, have affirmed the contents of the Memorandum of Compromise referred to above and also attested on the case bundle to that effect.

12. Since both parties have affirmed the terms of the Memorandum of Compromise referred to above, in terms thereof, C.C.C.A.M.P. No.537 of 2017 is allowed recording the compromise between the parties.

13. Consequently, the C.C.C.A. is disposed of in terms of the compromise referred to above and the cross-objection (S.R.) stands closed. The Memorandum of Compromise dated 06.08.2016 shall form part of the record.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the appeal stand disposed of.

A. SHANKAR NARAYANA, J

October 23, 2017.

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