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In the High Court of Judicature at Madras

Dated : 20.06.2018

Coram

The Honourable Mr. Justice R. SUBBIAH
and
The Hon'ble Mr. Justice C. SARAIVANAN

A.S.No.347 of 2011
and
M.P.No.1 of 2011

1. Nesamani
2. V.S. Vimala
3. Ilda ..Appellants/Plaintiffs 1 to 3

..vs..

1. Sigamani
2. Deva Anbu (Deceased)
3. Daniel Thomas ..Respondents 1 to 3/Defendants 1 to 3
4. E. Mary Violet (Deceased)
..4th Respondent/4th Plaintiff

5. D. Elizabeth Rani (Deceased)
6. Nagomi Jeba Sheela
7. Josephine Saral
(R5 to R7 brought on record as LRS
the deceased second respondent as per the
order of this Court dated 14.2.2014
in MP.No.1/2012)

8. Rabeendaran
9. Lizy Margaret
10. Joshuaravi
11. Rachael
12. Laxmi

(R8 to R12 brought on record as LRS
of the deceased 4th respondent as per the
order of this Court dated 05.09.2017 in
CMP.Nos.13861 to 13863/2017)

..Respondents

Appeal Suit filed under Order 41, Rules 1 and 2 r/w Section 96 of the Civil Procedure Code against the judgment and decree dated 03.07.2009 in O.S.No.311 of 2006 on the file of the Additional District Judge, Fast Track Court No.1, Chengalpattu.

For Appellants : Mr.M.Kamalakaran
For R1 and R6 to R12: Mr.N.Nagusah
For R3 : Given up



JUDGMENT

(Judgment of the Court was delivered by R. SUBBIAH, J.)

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The appellants herein are the plaintiffs in O.S.No.311 of 2006, on the file of the learned Additional District Judge, Fast Track Court No.I, Chengalpattu. They along with the fourth respondent herein have filed the aforesaid suit against the respondents 1 to 3/defendants 1 to 3 for the following reliefs:

(a)passing a preliminary decree for partition of the A schedule property by metes and bounds;

(b)passing a preliminary decree allocating the individual share of the plaintiffs as per items 1, 2 and 3 in the B Schedule combinely measuring $61\frac{1}{2}$ cents and $1/6^{\text{th}}$ share each in the C schedule property measuring a total extent of 120 cents ($4/6^{\text{th}}$ share) making a grand total of $181\frac{1}{2}$ cents; and

(c)permanent injunction restraining the defendants from alienating the said extent of $181\frac{1}{2}$ cents being the share of the plaintiffs.

The trial court, after analysing the oral and documentary evidence adduced by the parties, has partly allowed the suit on 03.07.2009. Aggrieved over the same, the appellants/plaintiffs have filed the present appeal suit.

2.During the pendency of this appeal, the fifth respondent viz., Elizabeth Rani died on 22.07.2016 leaving behind the respondents 6 and 7 as her legal heirs, who were already brought on record, as per the order of this Court dated 14.02.2014 passed in MP.No.1 of 2012 in AS.No.347/2011.

3.Today, when the matter came up for hearing, both the parties along with their respective learned counsel on record appeared in person and they submitted that they have compromised the dispute among themselves. They have also filed a joint compromise memo dated 18.06.2018 signed by the parties along with their respective learned counsel on record, to that effect. When we enquired the parties about the factum of compromise and the terms of the compromise, they have admitted the same. We also perused the aforesaid joint compromise memo dated 18.06.2018, wherein, it has been stated as follows:

The appellants and the respondents above mentioned had compromised the dispute subject matter of the above appeal on the following terms and conditions:

1.The appellants restrict their claim only to the suit Schedule C property.



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2.The appellants and the respondents do hereby agree that the appellants are jointly allotted with 20.5 cents as marked in Blue colour in the sketch annexed towards their joint share from and out of the Schedule C property measuring 180.5 cents and the original respondents 1, 2 and 4 or their legal heirs shall be jointly allotted along with the other beneficiaries as per the terms as mentioned in the Will dated 27.02.1992 marked as Exhibit B2 in O.S.No.311 of 2006, the remaining C schedule property land measuring 160 cents marked in green colour in the sketch annexed herein.

3.The appellants do hereby declare and confirm that they had taken the delivery of possession of the Blue marked portion measuring 20.5 cents of the Schedule C mentioned property and that they have no claim whatsoever against the share allotted to respondents 1, 2 and 4 or their legal heirs along with the beneficiaries as per the terms as mentioned in the Will dated 27.02.1992 marked as per Exhibit B2 in O.S.No.311 of 2006.

4.The respondents do hereby declare and confirm that they had taken the delivery of possession of the Green colour marked portion in the sketch annexed herein measuring 160 cents of the Schedule C mentioned property and that they have no claim whatsoever against the appellants in respect of the blue marked 20.5 cents allotted to the joint share of the appellants. The appellants and the respondents shall bear their respective cost of the litigations.

5.The appellants/respondents do not claim any right over the property already sold to 3rd respondent Daniel Thomas.

6.The legal heirs of deceased 5th respondent Mrs.Elizabeth Rani are already on record as respondents 6 & 7.

Both the appellants and the respondents pray that the Hon'ble Court may be pleased to record their Joint Compromise Memo in the above A.S.No.347 of 2011 and pass a decree and judgment in A.S.No.347 of 2011 in terms of this compromise memo and thus render justice."



4. In view of the above, this Appeal Suit is disposed of in terms of the aforesaid joint compromise memo dated 18.06.2018 filed by the parties. The joint compromise memo dated 18.06.2018 shall form part of the decree. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Additional District Judge
Fast Track Court No.I
Chengalattu.

Copy to

The Section officer
VR Section, High Court, Madras 104.

A.S.No.347 of 2011

VD(CO)
SP(19/03/2019)