

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2018

CORAM

THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU

C.S. No.118 of 2018

1. Nafiza Begum alias Deepti
2. D.J.Reteck ... Plaintiffs

Vs.

1. Hafieeza Sherif
2. Sakila Banu
3. Master Mohammed Iqbal
Rep. by his Natural Mother
& Guardian Sakila Banu.
4. Ajfar Sherif
5. Iqbal Sherif ... Defendants

Plaint filed under Order XXIV Rule 1 of Original Side Rules r/w Order VII Rule 1 of C.P.C. praying to pass a judgment and decree:-

- i. Permanent injunction restraining the defendants, their men, agents, servants, representatives or anybody claiming through them from dealing with the proportionate undivided share of the plaintiffs in the schedule mentioned properties in any manner by alienating or encumbering the Schedule Mentioned Properties
- ii. declare that the Settlement deed dated 03.11.1999 bearing Document No.3611 of 1999 registered before S.R.O. Kodambakkam pertaining to Item-I of Schedule of Properties as null and void and not binding upon the plaintiffs.
- iii. declare that the Settlement deed dated 03.11.1999 bearing Document No.3612 of 1999 registered before S.R.O. Kodambakkam pertaining to Item-I of Schedule of Properties as null and void and its consequential registration are not binding upon the plaintiffs.
- iv. declare that the Settlement deed dated 14.07.2008 bearing Document No.3724 of 2008 registered before S.R.O. Virugambakkam pertaining to Item-II of Schedule of Properties as null and void and not binding upon the plaintiffs.
- v. declare that the Settlement deed dated 06.05.2009 bearing Document No.1773 of 2009 registered before S.R.O. Virugambakkam pertaining to Item-II & III of Schedule of Properties as null and void and not binding upon the plaintiffs.
- vi. declare that the Cancellation deed dated 29.12.2010 bearing Document No.7059 of 2010 registered before S.R.O. Virugambakkam pertaining to Item-II of Schedule of Properties as null and void and not binding upon the plaintiffs.
- vii. declare that the Settlement deed dated 29.12.2010 bearing Document No.7060 of 2010 registered before S.R.O. Virugambakkam pertaining to Item-II of Schedule of Properties as null and void and not binding upon the plaintiffs.
- viii. declare that the Release deed dated 11.02.2002 bearing Document No.244 of 2002 registered before S.R.O. Adyar pertaining to Item-IV of Schedule of Properties as null and void and not binding upon the plaintiffs.
- ix. declare that the Cancellation of Settlement deed dated 13.01.2015 bearing Document No.112 of

2015 registered before S.R.O. Adyar pertaining to Item-IV of Schedule of Properties as null and void and not binding upon the plaintiffs.

x.declare that the Settlement deed dated 18.08.2018 bearing Document No.2262 of 2015 registered before S.R.O. Adyar pertaining to Item-IV of Schedule of Properties as null and void and not binding upon the plaintiffs.

xi.to divide and separate 8/24th share of proportionate extent of land by metes and bounds from the Schedule mentioned properties and allot the same jointly to the plaintiffs by appointing a Commissioner during the course of final decree.

xii.to pay the costs of this suit to the plaintiffs.

For Plaintiffs : Mr.B.Easwaran

for M/s. Swaraj Associates

For Defendants : Mr.S.Sivakumar

(For Defendants 1, 4 & 5)

Mr.V.Raghavachari

(For Defendants 2 & 3)

J U D G M E N T

The First and Second Plaintiffs and the First to Third Defendants are present before this Court. The Fourth and Fifth Defendants are represented by the First Defendant, who is their Power of Attorney.

2. It is submitted by the Learned Counsel appearing for the both sides that the compromise has been entered between the parties and a Memorandum of Compromise has been filed to that effect. All the parties have signed the Memorandum of Compromise before this Court.

3. In the Memorandum of Compromise at the conclusion, the value of the shares allotted to the parties have been given. Though the First and Second Defendants are entitled to get the value of Rs. 2,23,50,709/- they have expressed satisfaction with the value of Rs.1,80,98,080/-. Though the First Defendant is entitled to get the value of Rs.6,32,58,100/-, she has expressed satisfaction with the value of Rs.5,59,94,960/- In respect of Second and Third defendants, though they are entitled to get a value of Rs.2,23,50,709/-, a higher value of Rs.3,38,66,479/- has been granted to them, which is accepted by all the parties. The reasons stated by the First and Second Plaintiffs and the First Defendant for accepting a lesser value of share is in order to maintain the peaceful relationship and to avoid further litigation. Further the Learned Counsel appearing for the Second and Third Defendants has filed a certificate under Rule 7 of Order XXXII of the Code of Civil Procedure, 1908, stating that the compromise is for the best benefit of the minor, which is supported by the fact that the minor has been given a higher value of share in the property. It is made clear that till the Third Defendant, who is now a minor, attains the age of majority, the property jointly allocated to the Second and Third Defendants shall not be alienated or encumbered by the Second Defendant in any manner without the prior permission of this Court.

4. The suit is decreed in terms of the Memorandum of Compromise, which shall form a part of the decree. In view if the settlement arrived between the parties, the Plaintiffs shall be entitled to a Certificate for the refund of eligible amount of court- fee in accordance with law. No costs.

10.10.2018

2/2

Index : Yes/ No

Internet : Yes/ No

Speaking Order/ Non-speaking Order

Note:-

1. Registry is directed to draft the decree and get approval of the Counsel appearing for all the parties by 26.10.2018.
2. Issue copy of Judgment and Decree by 31.10.2018.

rts

P.D.AUDIKEVALU, J.

rts

C.S. No.118 of 2018

10.10.2018