

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

S.A.No.1965 of 2002

1. Samikannu (Deceased)
2. Sebastian .. Appellants/Appellants/Defendants

-Vs-

1. Kuttalam Tenants Co-operative
Farming Society, Z-444 by its
President, Kuttalam,
Mayiladuthurai Tk.
2. S.Arokiasamy
3. Minerva
4. S.Hilda
5. Rani ... Respondents/Respondents/Plaintiffs

[Second appellant and RR 2 to 5 were brought on record as LR's of the deceased sole appellant in vide order of this court dated 12/02/2018 made in CMP.No.1273 to 1275/2018 in S.A.No.1965/2002]

Prayer: Second Appeal filed under Section 100 of C.P.C. against the judgment and decree of the court of Principal Sub-Ordinate Judge, Mayiladuthurai in A.S.No.21 of 2001 dated 12.02.2002 in confirming the judgment and decree of the court of the Principal District Munsif, Mayiladuthurai in O.S.No.83 of 1997 dated 20.11.2000.

For Appellants : Mr.A.Muthukumar
For Respondents: Mr.S.Sounthar

J U D G M E N T

The unsuccessful defendants who lost their case before both the courts below have filed the second appeal.

2. The first respondent society, filed a suit for declaration, recovery of possession and future profits. The said suit was decreed in respect of the relief sought for declaration and recovery of possession was granted by the lower court. However, the relief in respect of future profits was rejected. As against the lower court order, the defendants preferred

appeal before the first appellate court. The first appellate court dismissed the appeal filed by the appellants/defendants. Aggrieved by the same, the defendants have filed the second appeal. However, the society has not preferred any appeal as against the lower court order, with regard to the future profits.

3. The president of the first respondent society and the appellants appeared before this court. The learned counsel appearing for the appellants as well as the respondents filed a joint compromise memo dated 27.02.2018.

4. The second appellant filed a memo stating that the second appellant had become a member of the first respondent society. His membership No. is 95. The second appellant is a cultivating tenant in the suit lands and paying the rent to the first respondent society. The society has also issued a certificate to that effect that it has no objection to continue his tenantship with the second appellant. Accordingly, the second appellant produced a certificate dated 15.02.2008 issued by the first respondent society. The said memo is taken on record.

5. Thereafter, the first respondent society also filed a memo stating that the first respondent has no objection for the appellant to continue as a cultivating tenant in the suit schedule property. He confirmed the second appellant membership No.95 and also stated that the second appellant is paying rent to the society. Accordingly, no objection memo was filed by the first respondent. Both the memos are taken on file.

6. Thereafter, both the parties filed a joint compromise memo dated 27.02.2018. The terms of compromise are as follows:

"(i) The second appellant, who is the member of the 1st respondent's society, membership No.95, is entitled to cultivate the suit lands.

(ii) The 1st respondent's society has no objection for continuing the tenancy in respect of the suit lands in favour of the second appellant.

(iii) The parties to this compromise memo here by agreed that the decree passed in O.S.No.83 of 1997 dated 20.11.2000, on the file of the Principal District Munsif Court, Mayiladuthurai and confirmed in A.S.No.21 of 2001 dated 12.02.2002, on the file of the Principal Sub ordinate Judge's Court, Mayiladuthurai have become inoperative since the 2nd appellant has become a member of the 1st respondent society and

cultivating the suit lands under the tenancy arrangement.

(iv) The parties to this compromise memo having agreed that the decrees which are under challenge in the above second appeal may be set aside and the second appeal may be allowed.

(v) The second appeal against the respondents 2 to 5 may be dismissed.

(vi) The parties have agreed to the bear their own costs".

7. In view of the above the second appeal is allowed in terms of the joint compromise memo dated 27.02.2018. The said joint compromise memo dated 27.02.2018 shall form part and parcel of the decree.

8. In the result, the second appeal is allowed. The judgment and decree dated 12.02.2002 made in A.S.No.21 of 2001 on the file of Principal Sub-Ordinate Judge, Mayiladuthurai, confirming the judgment and decree dated 20.11.2000 made in O.S.No.83 of 1997 on the file of Principal District Munsif, Mayiladuthurai, is set aside. Consequently connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar (CS III)

//True copy//

Sub Assistant Registrar

msvm

To

1.The Principal District Munsif,
Mayiladuthurai.

2.The Principal Sub-ordinate Judge,
Mayiladuthurai.

Copy TO

The Section Officer,
VR Section, High Court,
Madras.

+1cc to Mr.A.Muthu Kumar, Advocate SR.No.15270

S.A.No.1965 of 2002

KS (CO)
GN (27/03/2018)