

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.03.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

S.A.Nos.2152 to 2154 of 2002

K. Chitra

.. Appellant in all the S.As/  
Plaintiff in O.S.1490/93

..2nd Defendant in O.S.NO.659/93  
..3rd Defendant in O.S.NO.1292/92

Vs.

1.P.Nithyanandam  
2.N.Vijayalakshmi  
3.S.P.Ramasamy

..Respondents in all the S.As/  
..Defendants 1 to 3 in O.S.1490/93  
..Plaintiffs 1&2 and 1st Defendant  
in O.S.659/93  
..Defendants 1&2 and Plaintiff  
in OS.NO.1292/92

COMMON PRAYER: The Second Appeals have been filed under Section 100 of C.P.C., to set aside the Judgments and Decrees dated 22.06.2001 made in A.S.Nos.196/2000, 197/2000 & 208/2000 on the file of the Principal District Judge, Coimbatore in reversing the Judgment and Decree in O.S.Nos.1490/1993, 659/1993, 1292/1992 on the file of II Additional Subordinate Court, Coimbatore dated 21.06.2000.

For Appellant in all S.As : MrR.S..Pandiyaraj

For Respondents in all S.As: Mrs. P.T.Asha (for R1 & R2)  
for M/s.Sarvabhauman Associates

M/s.G.Sethuraman (for R-3)

C O M M O N J U D G M E N T

1. a)S.A.No.2152/2002: O.S.No.1490/1993 is filed by the appellant/plaintiff seeking partition claiming one-fourth share in the suit schedule property, the suit was decreed. Aggrieved by the decreetal order, the defendants therein filed an appeal before the lower appellate court. The lower appellate court has dismissed the suit and allowed the appeal. As against the order of the lower appellate court, the present second appeal is filed.

b) S.A.No.2153/2002: O.S.No.659/1993 is filed by the plaintiffs viz., P.Nithyanandam and N. Vijayalakshmi for a declaration declaring that the suit schedule property absolutely belongs to the plaintiffs. However, the lower court, after trial, granted three-fourth share in favour of the plaintiffs. Aggrieved by the same, the plaintiffs have filed the appeal before the lower appellate court. The lower appellate court has allowed the appeal. As against the order of the lower appellate court, the second defendant has filed the present second appeal.

c) S.A.No.2154/2002: O.S.No.1292/2002 is a suit filed by the plaintiff for a declaration and consequential injunction for declaring that half share in the suit schedule property belongs to the plaintiff. After trial, the lower court dismissed the suit. As against the same, the plaintiff filed an appeal before the lower appellate court. The lower appellate court has also dismissed the appeal and confirmed the share and granted relief in favour of the defendants 1 and 2, who is none other the plaintiffs in O.S.No.659/1993. Aggrieved by the said order of the lower appellate court, the plaintiff in O.S.No.1409/1993, the second defendant in O.S.No.659/1993 and third defendant in O.S.No.1292/1992 has filed the present second appeal.

2. Learned counsel appearing for the appellant as well as the for the respondents have filed a joint compromise memo (memorandum of agreement) before this court.

3. During the pendency of the second appeal, the appellant's father, Ramasamy has passed away leaving behind the appellant Chitra as his sole legal heir. The appellant has now entered into a compromise with the respondents.

The memorandum of agreement reads as follows:

" 1) The FIRST and SECOND PART above are close relatives, viz., The FIRST PART Mr. Nithyanandham and Mrs. Vijayalakshmi is the maternal Uncle and Aunty of SECOND PART Mrs. K. Chitra.

2) The FIRST and SECOND PART have landed properties jointly in their names situated in Survey Nos. 57/2 & 84 to an extent of 4.36 acres coming under Puliyakulam Revenue Village, Coimbatore. The above properties are purchased jointly and severally by the FIRST PART and the father of the SECOND PART.

3) It is hereby agreed by both the FIRST PART and SECOND PART that there was some dispute among them regarding the apportionment of the above properties. Due to this misunderstanding both the parties have approached the Court of Law on various occasions to establish their rights. The matters are now in second appeal stage vide S.A.Nos.2153 & 2154 of 2002, 929 of 2006, etc., before the Hon'ble High Court of Madras.

4) It is hereby agreed by both the FIRST and SECOND PART that since the legal battle is prolonging for the past 22 years in various stages before the Sub-Court, District Court and the Hon'ble High Court and no fruitful outcome has come to both the parties till date except prolonging the legal battle for years together, it is decided to settle the entire issue amicably by both the parties by way of entering into this agreement in so far as the apportionment of share of each party as agreed in this agreement.

5) The extent of subject lands situated in Puliakulam Revenue Village in Coimbatore District is as follows:

(a) 2.0 acres in Survey No.57/2.

(b) 2.36 acres in Survey No.84

6) Out of this, it is agreed by both the parties that:

(a) An extent of 1.63 Acres situated in Survey No.84 with the following four boundaries will be apportioned to Mr.Nithyanandham.

Four Boundaries:

South : Premier Mill Group

North : Vaikkal

East : Premier Mill Group

West : Chitra Land

(b) An extent of 2.0 Acres situated in Survey No.57/2 with the following four boundaries will be apportioned to Mr.Nithyanandham.

Four Boundaries:

South : Vaikkal

North : Professional Courier Land & Building

East : R.G.Nagar Layout

West : R. Govindarajulu

If there is any corrections/modifications needed in the Revenue Records relating to this land, it will be done by Mrs.K.Chitra in favour of

Mr.Nithyanandham and Mrs.N.Vijayalakshmi to ensure peaceful possession and enjoyment of the said property apportioned to them by way of this agreement.

(b) An extent of 0.73 acres i.e., 73 cents situated in Survey No.84 with the following four boundaries will be apportioned to Mrs.K.Chitra:

Four Boundaries:

South : Suresh Kumar Land  
North : Land given by K.Chitra for Road  
East : P. Nithyanandham  
West : Suresh Kumar Land

If there is any corrections/modifications needed in the Revenue Records relating to this land, it will be done by Mr.P. Nithyanandham and Mrs.N. Vijayalakshmi in favour of Mrs. K.Chitra to ensure peaceful possession and enjoyment of the said property apportioned to her by way of this agreement.

7) It is hereby agreed by both the parties that they shall arrange to file a joint-memo through their respective counsels before the Hon'ble High Court of Madras to withdraw the above second appeals pending in the above matters as settled out of court.

8) It is hereby further agreed by both the parties that after entering into this agreement, the entire issue stands settled between both the parties full and final and there is no other dispute pending between both the parties in so far as above landed properties are concerned in view of this agreement.

9) It is hereby agreed by both the parties are at liberty to possess and enjoy the properties apportioned to them as they wish without any hindrance from the other party.

NOW BOTH THE PARTIES PUT INTO THEIR SIGNATURES ON THIS 24<sup>th</sup> DAY OF JANUARY, 2018.  
FIRST PART SECOND PART

(NITHYANANDHAM)  
(K.CHITRA)

(N.VIJAYALAKSHMI) "

4. In view of the compromise arrived at between the parties, this court is inclined to dispose of these second appeals.

In the result, these second appeals are disposed of in terms of the above said memorandum of agreement. The said memorandum of agreement forms part and parcel of the decree. No costs. Consequently, connected miscellaneous petition, if any, is closed.

Sd/-  
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

gv  
To

1. The Principal District Judge,  
Coimbatore.
2. The II Additional Subordinate Court,  
Coimbatore.

Copy to":

The Section Officer,  
V.R. Section,  
High Court, Madras.

+1 cc to M/s. Sarvabhauman, AdvocateSr.17710  
+1 cc to Mr.R.S. Pandiyaraj, Advocate SR.18196

S.A.Nos.2152 to 2154 of 2002

SAI(CO)  
EU(27/04/2018)

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