

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2018

CORAM:

THE HONOURABLE Mr.JUSTICE M.S.RAMESH

S.A.No.337 of 2014

A.Saraswathi ... Appellant

Vs.

1.K.Palanisamy (Deceased)

2.P.Krishnaraj

3.P.Thangaraj

4.A.Meenambigai

5.N.A.Kandasamy

6.K.Srinivasan

7.A.Alok Arora

8.R.Vijayalakshmi

9.R.C.Prasad

10.R.D.Thilaka

11.M.Chandrasekar

12.P.Vasu Padmanabhan

13.A.Narayanan

14.H.Sunitha Hariganesh

15.M.Santhosh Mathew

16.The Branch Manages,
Indian Overseas Bank,
Ramalinga Nagar,
Saibaba Colony, Coimbatore

17.Gandhimathi ... Respondents

Prayer: Second Appeals filed under Section 100 of C.P.C., against judgment and decree dated 05.09.2013 passed by the learned V Additional District & Sessions Judge, Coimbatore in A.S.No.89 of 2012, reversing the judgment and decree dated 12.07.2012, passed by the learned I Additional Subordinate Judge, Coimbatore in O.S.No.647 of 2010.

For Appellant : Mr.T.S.Baskaran

For Respondents: Mr.K.S.Karthik Raja, for R1 to R5 and R17
No Appearance for R6 to R16

J U D G M E N T

The plaintiff is the appellant in the present second appeal. During the pendency of second appeal, the appellant and respondents 2 to 4 and 17 had amicably resolved the dispute among themselves and entered into a joint memo of compromise, whereby these parties had divided the portion of the suit property among themselves. As per the terms of the compromise, the appellant has been allotted an extent of 3.51 acres in Survey No.238 part and the respondents 2 to 4 and 17 have been allotted the rest of the extent of 5.26 acres. The terms of joint memo of compromise are extracted

here under:-

b) The decree and judgement of the V Additional District Court in A.S.No.89 of 2012 dated 05.09.2018 may be set aside and the decree and judgement of the Trial Court viz. the First Additional Sub Court, Coimbatore, dated 12.07.2012 in O.S.No.647 of 2010 may be restored.

c) By way of amicable compromise, the parties have divided the properties and they have enclosed a sketch duly signed by the parties. The Plaintiff/Appellant has been allotted an extent of 3.51 acres in Survey No.238 part which is shown in green colour in the plan appended to this compromise petition and she has already been put in possession of the property.

d) The Respondents 2 to 4 /Defendants 2 to 4 and 17th respondent (Legal Heirs of deceased 1st respondent/1st defendant) have been allotted the rest of the extent measuring 5.26 acres of land consisting of the following extent in the following survey fields:

i) Survey No.239/1 part - 3.29 acres

ii) Survey No.239/4 full - 0.02 acres

iii) Survey No.241/1 part - 0.57 acres

iv) Survey No.240/2 part □ 0.61 acres

v) Survey No.244/1B1 - 0.77 acres

Total 5.26 acres

2.The above terms of the joint memo of compromise is hereby recorded. It is also brought to the notice of this Court, the properties which have been settled between the appellant and the respondents 2 to 4 and 17 are portion of the suit properties and that the remaining extent have already been alienated to other defendants who had remained ex-parte. It is also the submissions of both the counsels that the appellant and respondents 2 to 4 and 17 are not making any claim towards the rest of the suit properties in joint memo of compromise.

3.In the light of the submissions made by recording the terms of joint memo of compromise extracted above, the second appeal is partly allowed in terms of the joint memo of compromise extracted above.

4.The memo of compromise shall also form part of the decree.

08.10.2018

AT

Speaking/Non Speaking Order

Index:yes/no

Internet:yes

Note: The Registry shall dispatch joint memo of compromise to the trial Court for the purpose of endorsing the final decree.

To

1. The V Additional District & Sessions Judge,
Coimbatore.

2. The I Additional Subordinate Judge,
Coimbatore.

M.S.RAMESH, J.

AT

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