



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE S.BASKARAN

O.S.A.Nos.288 & 289 of 2017

V.Ashok Kumar .. Appellant in O.S.A.No.288 of 2017

1. V.Pandari Rao

2. V.Ashok Kumar ..Appellants in O.S.A.No.289 of 2017

-vs-

Kasthuri Bai

D/o Bali Bai .. Respondent in O.S.A.No.288 of 2017

1. Saraswathi

W/o Ranga Rao

2. Renuka

W/o P.K.Namadeva Rao

3. Kasthuri

D/o Bali Bai

4. Jothi

W/o Suryanarayan Rao

.. Respondents in O.S.A.No.289 of 2017

Memorandum of Grounds of Original Side Appeals filed under Order 36 Rule 1 of O.S.Rules read with Clause 15 of the Letters Patent against the common judgment and decree dated 21.02.2017 made in T.O.S.Nos.6 of 2005 & 14 of 2011 (O.P.Nos.841 & 103 of 1999).

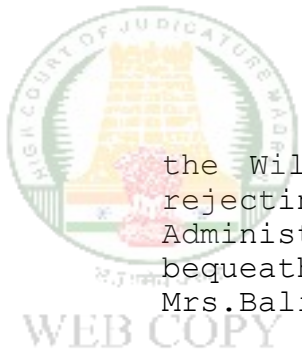
For Appellant(s) : Mr.S.Parthasarathy

For Respondent(s) : Mr.P.B.Balaji

JUDGMENT

(Judgment of the Court was delivered by N.KIRUBAKARAN, J.)

The Original Side Appeals have been filed against the common judgment and decree dated 21.02.2017 passed by the learned single Judge granting Letters of Administration in respect of



the Will dated 27.12.1993 relied upon by the respondents and rejecting the prayer of the appellants for grant of Letters of Administration in respect of the Will dated 25.09.1969 bequeathing the properties in their favour by their mother Mrs.Bali Bai.

2. Mrs.Bali Bai was the owner of the property bearing Old Door No.34 and New Door No.76, Chella Pillaiyar Koil Street, Pudhupakkam, Chennai and also another property, namely, leasehold rights of the land belonging to Chota Naksha Charities, Royapettah, Chennai bearing Door No.17 in the Eastern row of Sirdar Jung Tank Garden Second Street, Pudhupakkam, Royapettah, Chennai. The appellants are the sons and the respondents are the daughters of the said Mrs.Bali Bai. The said Bali Bai died on 30.05.1998.

3. After the death of her mother, the respondent in O.S.A.No.288 of 2017 filed O.P.No.841 of 1999 seeking Letters of Administration of the Will dated 27.12.1993, by which the house property situate at Old Door No.34 and New Door No.76, Chella Pillaiyar Koil Street, Pudhupakkam, Chennai had been bequeathed in favour of the appellants/sons and the other property at Door No.17 in the Eastern row of Sirdar Jung Tank Garden Second Street, Pudhupakkam, Royapettah, Chennai had been bequeathed to the respondents/daughters. The appellants had filed O.P.No.103 of 1999 seeking Letters of Administration for the Will executed by their mother dated 25.09.1969 claiming that both the properties were bequeathed in their favour.

4. Both the Original Petitions stood converted as T.O.S.Nos.14 of 2011 and 6 of 2005 respectively. After trial, the learned single Judge found that the Will dated 27.12.1993 is genuine and granted Letters of Administration thereof, but dismissed the T.O.S., filed by the appellants holding that the Will dated 27.12.1993 supersedes the earlier Will dated 25.09.1969.

5. When the appeals are taken up today, Mr.S.Parthasarathy, learned counsel for the appellants and Mr.P.B.Balaji, learned counsel for the respondents have submitted that the matter has been settled between the parties and a memorandum of compromise dated 5th October, 2018 entered into between them, signed by the parties and the respective counsel, has been filed before this Court. All the parties, except the first respondent-Mrs.Saraswathi, are present and they would state that the matter has been settled as per the terms of the memorandum of compromise filed before this Court.

6. As per the terms shown in the memorandum of compromise,



the appellants will have equal share over the property situate at Old Door No.34 and New Door No.76, Chella Pillaiyar Koil Street, Pudhupakkam, Chennai and the respondents will have equal share over the property situate at Door No.17 in the Eastern row of Sirdar Jung Tank Garden Second Street, Pudhupakkam, Royapettah, Chennai, described in the Corporation Register as Sardar JungTank Street, Pudhupakkam, Chennai.

7. In essence, the parties have agreed to go by the judgment and decree passed by the learned single Judge giving effect to the Will dated 27.12.1993 relied upon by the respondent in O.S.A.No.288 of 2017.

8. In view of the above settlement, this Court passes a decree granting (i) Letters of Administration in favour of the appellants jointly, in respect of the property situate at Old Door No.34 and New Door No.76, Chella Pillaiyar Koil Street, Pudhupakkam, Chennai and (ii) Letters of Administration in favour of the respondent-Kasthuri Bai in O.S.A.No.288 of 2017 in respect of the property situate at Door No.17 in the Eastern row of Sirdar Jung Tank Garden Second Street, Pudhupakkam, Royapettah, Chennai, described in the Corporation Register as Sardar JungTank Street, Pudhupakkam, Chennai.

9. The Original Side Appeals are disposed of in terms of the memorandum of compromise dated 5th October, 2018, which shall form part of the judgment. No costs.

* Xerox copy of Memo of Compromise enclosed

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ss/vkr

To

1. The Sub Assistant Registrar (O.S.)
High Court, Madras

+2cc to Mr.S.Parthasarathy, Advocate, S.R.No.68798
+1cc to M/s.P.B.Ramanujam, Advocate, S.R.No.69789

O.S.A.Nos.288 & 289 of 2017

ssi(Co)
cs/07/02/2019