

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2018

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MR. JUSTICE N.ANAND VENKATESH

O.S.A.NO.227 OF 2013

Ramesh Lakshmi Ratan .. Appellant

Vs

1.Janani Subramanyan
2.Manoj Subramaniyan .. Respondents

Appeal preferred under Order XXXVI Rule 1 of O.S. Rules against the judgment and decree dated 21.08.2012 made in T.O.S.No.21 of 2008 filed under section 232 and 276 of the Indian Succession Act and under order XXV R.5 of the High Court original side Rules 1956, for the grant of letters of Administration with will annexed.

For Appellant ... Mr.P.B.Ramanujam

For Respondents ... Mr.T.S.Baskaran

JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

This appeal is directed against the judgment and decree dated 21.08.2012 made in T.O.S.No.21 of 2008.

2.When the matter is taken up for hearing, learned counsel appearing for the parties would submit that the matter has been settled pursuant to the mediation held. A copy of the mediation report and the memo of compromise and family arrangement dated 01.12.2017 are also placed on record. The memo of compromise and family arrangement reads as under:

"1.The appellant hereby agrees to pay a sum of
Rs.6,00,00,000/- (Rupees Six Crores) to the

respondents towards the full and final settlement of the claims arising in this appeal and the respondents hereby agree to receive the sum of Rs.6,00,00,000/- (Rupees Six Crores) as the full and final settlement of all their claims in the suit property and thereby secure the suit property with its antecedent titles as part of the family arrangement to resolve this long standing dispute within the family.

2.The appellant shall pay a sum of Rs.6,00,00,000/- (Rupees Six Crores) as per the following schedule:-

(a)A sum of Rs.1,00,00,000/- (Rupees One Crore) to each of the respondents on or before 15th December 2017.

(b)A sum of Rs.2,00,00,000/- (Rupees Two Cores) to each of the respondents on or before 15th March 2018.

3.The parties agree that the time fixed in Clause 2 above is the essence of this compromise and family arrangement.

4.The parties agree that if the appellant defaults in making payment on the dates agreed, then this compromise will have no validity and the parties shall pursue their respective stands in the appeal and seek to dispose of the appeal on merits.

5.The appellant agrees that if he makes the payment of the first instalment and fails to make the second payment on the date mentioned in clause 2 above, the compromise by way of family arrangement cannot be enforced by him and the payment of two crores paid by him to the respondents shall not be claimed back by him under any guise shape or form and the same shall be considered forfeited for no performance. The appellant agrees that this clause is not a clause in terrorem or by way of penalty but a clause agreed with full understanding.

6.The parties agree that the OSA will be kept pending till the time schedule for completion of the payment is over.

7.Upon the appellant making the payment as per the schedule in clause 2 above, the respondents agree that the OSA No.227 of 2013 shall stand allowed by granting letters of administration of the Will dated 17th July 1998 executed by Late.Swarnam Lakshmi Ratan and the suit in C.S.No.169 of 2011 shall stand dismissed as withdrawn.

8.The parties shall bear their respective cost throughout.

3.Accordingly, the Original Side Appeal is dismissed in view of the memo of compromise and family arrangement dated 01.12.2017. No costs.

This OSA having been filed on Wednesday the Eleventh day of July 2018 under caption for being spoken to in pursuant to the earlier order dated 06.06.2018 and in the presence Mr.P.B.Ramanujam, Advocate for the Appellant and of Mr.T.S.Baskaran, Advocate for the Respondents and this court made the following order:-

This matter is listed today under the caption 'for being spoken to', at the instance of the Registry.

2. When the matter is taken up for hearing, learned counsel for both sides would submit that no further orders are required.

3. In such view of the matter, no further orders are required.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mmi

To

The Sub Assistant Registrar,
Original Side, High Court, Madras.

+1cc to Mr.P.B.Ramanujam, Advocate, S.R.No.35384
+1cc to Mr.T.S.Baskaran, Advocate, S.R.No.35148

O.S.A.No.227 of 2013

RSY(CO)
CS/25/07/18