



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 06.02.2018

CORAM :

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

Second Appeal (MD) No.793 of 2013

Arul Samy : Appellant / Respondent No.5/ Defendant No.5

-Vs-.

Muthuperumal (died)

1.Perumal

: Respondent No.1/2nd Appellant / Plaintiff No.2

2.Parvathi

3.Perumayee

4.Thanga

5.Nagammal

: Respondent Nos.2 to 5/

Respondent Nos.1 to 4 / Defendant Nos.1 to 4.

Prayer: Second Appeal filed under Section 100 of Civil Procedure Code, against the judgment and decree dated 23.11.2012 made in A.S.No.19 of 2007 on the file of the Principal Sub Court, Dindigul reversing the Judgment and decree dated 20.11.2006 made in O.S.No.61 of 2003 on the file of the District Munsif Court, Nilakottai, Dindigul District.

For Appellants

: Mr.T.Lajapathy Roy

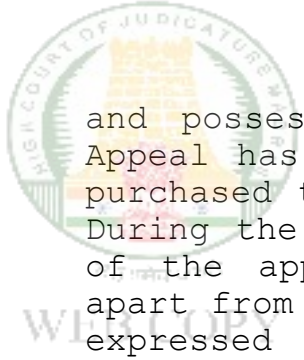
For Respondents

: Mr.K.Ashok kumar for R1

No appearance for R2 to R5

JUDGMENT

The fifth defendant in the suit in O.S.No.61 of 2003 on the file of the District Munsif Court, Nilakottai, has filed this Second Appeal. The suit in O.S.No.61 of 2003 is filed by one Muthuperumal, father of the first respondent herein, for declaration that the alienation, namely, the sale deed executed by the defendants 1 to 4 in favour of 5th defendant is null and void and for consequential injunction. Since the plaintiff died during the pendency of the suit, the first respondent was impleaded. Though the said suit was dismissed by the Trial Court, the first respondent in this appeal has preferred an appeal in A.S.No.19 of 2007 on the file of the Principal Sub Court, Dindigul. The first appellate Court reversed the findings of the Trial Court and decreed the suit declaring title



and possession in favour of the first respondent. This Second Appeal has been preferred by the fifth defendant in the suit, who purchased the property from the respondents 2 to 5 in this appeal. During the pendency of the appeal, without prejudice to the rights of the appellant, it appears that the appellant/fifth defendant apart from purchasing the property from the respondents 2 to 5, have expressed his willingness to acquire the rights of the first respondent too as the title has now been declared by the lower Appellate Court in favour of respondent.

2. After negotiation, the parties have mutually agreed to the terms. A compromise memo has been filed by the appellant and the first respondent along with a petition to record the compromise memo and to pass final order in this appeal in terms of compromise memo jointly filed by the appellant and the first respondent. As per the terms of compromise memo, the first respondent herein has agreed to relinquish all his rights in respect of the suit property in favour of the appellant herein for a consideration of Rs.11,60,000/-. It appears that a sum of Rs.5,00,000/- was paid on 16.01.2017 (i.e., today) at the time of presenting the compromise memo before this Court, further sum of Rs.6,60,000/- is also paid to the first respondent by way of Demand Draft drawn in favour of the first respondent.

3. In the result, this Court is inclined to dispose of the appeal in terms of compromise memo dated 01.02.2018 signed by the first respondent and appellant along with their counsels appearing for them before this Court.

4. As per the compromise memo, the first respondent/plaintiff has relinquished his rights over the suit property in favour of the appellant for valid consideration and the Judgment and Decree in O.S.No.61 of 2003 on the file of the District Munsif Court, Nilakottai in terms of Judgment and Decree in A.S.No.19 of 2007 on the file of the Principal Sub-Court, Dindigul stands set aside. Accordingly, this appeal is disposed of in terms of the compromise memo dated 01.02.2018. The Joint Memo of Compromise shall form part of the Judgment and Decree. No costs.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

(*) JOINT MEMO OF COMPROMISE XEROX COPY IS ENCLOSED HEREWITH

To

1. The Principal Subordinate Court, Dindigul.
2. The District Munsif, Nilakottai, Dindigul District
3. The Section Officer, Vernacular Records, (2 copies)

Madurai Bench of Madras High Court, Madurai.

+One cc to Mr.T.Lajapathi Roy, Advocate, SR.No.46975

+One cc to M/s.K.Ashok Kumar Ram, Advocate, SR.No.46691

skn