

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

ASMP.Nos.2060 of 2015, 1881 of 2017, 1882 of 2017 & 1883 of 2017 and I.A.No.3 of 2018

in/and

APPEAL SUIT No.2637 of 2004

COMMON JUDGMENT:

When this appeal is taken up for hearing, the 2nd appellant and the 1st respondent/plaintiff appeared before this Court in person. It is represented that the appellants 1 & 3 died. The 2nd appellant and the 1st respondent/plaintiff stated that they mutually agreed to settle the matter out of Court and that the terms of settlement are reduced into writing in the form of Memorandum of Understanding (MoU) and that the same is filed along with IA.No.3 of 2018 requesting to record compromise and dispose of the Appeal Suit in terms of the MoU. It is further stated that in view of the settlement between the 2nd appellant and the 1st respondent/plaintiff, the other parties i.e., the proposed parties are not necessary parties and that the pending interlocutory applications for bringing on record the legal representatives of the deceased 1st appellant and the proposed respondents 3 & 4 may be closed and that the Appeal Suit may be disposed of in terms of the MoU.

The 2nd appellant and the 1st respondent/plaintiff are identified by their respective learned counsel. The parties present produced their original identity cards. Copies of the same are placed on record. When the terms of compromise in the MoU are read over and explained to the parties present, the 2nd appellant stated that he paid Rs.10,00,000/- to the 1st respondent/plaintiff by way of demand draft. The 1st respondent/plaintiff acknowledged the receipt of the demand draft and further stated that the demand draft is encashed. He also stated that he is yet to withdraw a sum of Rs.3,80,000/- with

accrued interest, which is in deposit to the credit of the suit and that as per the compromise, he is entitled to receive the same and that in view of the compromise, the 1st respondent/plaintiff is relinquishing his rights under the judgment impugned and that the appeal may be allowed by setting aside the judgment impugned of the trial Court. This Court, after examination of the parties present, is satisfied that they entered into the compromise voluntarily with free will & consent and without any pressure from any quarter and that, therefore, the compromise can be recorded.

5. Accordingly, IA.No.3 of 2018 is allowed. As a sequel, the Appeal Suit is disposed of in terms of compromise. The MoU shall form part of the decree. It is made clear that, as per the terms of compromise, the 1st respondent/plaintiff is entitled to withdraw Rs.3,80,000/- with accrued interest lying to the credit of the suit, by following the procedure established by law.

ASMP.Nos.2060 of 2015, 1881 of 2017, 1882 of 2017 & 1883 of 2017 are closed.

There shall be no order as to costs.

Any other miscellaneous petitions, if any, pending in the Appeal Suit shall stand closed in the light of this judgment.

M.SEETHARAMA MURTI, J

Date: 6th December, 2018

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249

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