

* IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

* THE HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
and

* THE HON'BLE SRI JUSTICE T. AMARNATH GOUD

+ APPEAL SUIT No.217 of 2011

% Date: 27-02-2018

Between:

1. Puli Vanalakshamma, W/o. Venkatarathnam, R/o. D.No.8-23/1, Thyagaraya Nagar, Vedayapalem, Nellore-4, SPSR Nellore District.
2. Challa Akoluchi Jayalakshmi, W/o. Iraganaboina Srinivasa Rao, Property Holder, Advocate by profession and residing at Door No.4-246, Venkatareddy Nagar of Vedayapalem, Nellore -4, SPSR Nellore District.

... Appellants/Plaintiffs

Vs.

Challakoluchu Srinivasulu, S/o. Venkaiah
Property Holder and R/o. D.No.26-2-177,
Thyagaraya Nagar, Vedayapalem,
Nellore-4, SPSR Nellore District.

.. Respondent/defendant

! Counsel for the petitioner : Mr. Nimmagadda Satyanarayana

< GIST:

> HEAD NOTE:

? Cases referred

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE T. AMARNATH GOUD

APPEAL SUIT No.217 of 2011

ORDER: (per VRS. J)

This appeal arises out of a suit filed by the appellants for recovery of a sum of Rs.26,00,000/-, being the value of 13 plots allegedly sold by the respondent/defendant. The suit was dismissed by the trial Court forcing the appellants to come up with the above appeal.

2. During the pendency of the appeal, the 1st appellant died. The 2nd appellant and the respondent herein are brother and sister. They have three other sisters.

4. After the death of the 1st appellant, the 2nd appellant and the respondent have entered into a Memo of Compromise. The Memo of Compromise reads as follows:

"COMPROMISE PETITION FILED UNDER ORDER 23 RULE
1 OF CPC

The petitioners herein filed suit O.S.No.24 of 2005 on the file of the Learned Judge, Family Court-cum-Additional District Court, SPSR Nellore District against the respondent praying for the relief of Directing the defendant to pay to the Plaintiffs a sum of Rs.26,00,000/- (Rupees twenty six lakhs only) being the value of 13 house plots sold by him illegally and fraudulently together with costs. The trial Court dismissed the suit, by its Decree and Judgment dt.25-02-2011. Aggrieved by the said judgment and decree the Plaintiffs preferred the Present Appeal before this Hon'ble Court. During the pendency of the Appeal the First Appellant / Plaintiff passed away on 05.10.2011 leaving behind the 2nd appellant and the Sole Respondent in the present Appeal as her Class II heirs. While it was so, at the intervention of elders, mediators and well wishers of both the parties the dispute between them is settled on the following terms and conditions.

TERMS OF COMPROMISE MUTUALLY AGREED BY THE PARTIES:

I. It is mutually agreed upon by and between the parties that the 2nd Appellant herein shall withdraw the amount of Rs.10,00,000/- (Rupees Ten Lakhs Only) deposited by the Plaintiff / Referring Officer in L.A.O.P.No.81/91 on the file of the Hon'ble Court of the Senior Civil Judge, Nellore together with interest

accrued therein and the respondent/defendant will not have objection for the same.

II. It is further agreed by and between both parties that the present appeal may be partly allowed to a tune of Rs.10,00,000/- (Rupees Ten Lakhs only) being the amount held as deposit in L.A.O.P.No.81/91 on the file of the Hon'ble Court of the Senior Civil Judge, Nellore with interest accrued thereon, which is agreed to be withdrawn by the 2nd appellant in terms of this settlement under compromise.

III. It is further agreed by and between the parties that on withdrawal of the amount held as deposit in the above said L.A.O.P., the claim of the 2nd appellant against the respondent/defendant shall stand satisfied in full and she will not have any further claims against the respondent/defendant with regard to the subject matter of the present appeal.

IV. It is further agreed by and between the parties that the Decree and Judgment dt.25.02.2011 passed in O.S.No.24/2005 on the file of the Court of learned Family Court-cum-Additional District Judge, S.P.S.R. Nellore District shall stand set aside.

V. It is further agreed by and between the parties that each party shall bear their respective costs.

Both the parties request this Hon'ble Court to kindly pass a compromise decree in the present appeal on the above terms and conditions, mutually agreed upon by and between them."

5. The parties are present before the Court. Their identity is established by the Aadhaar Cards. We enquired the 2nd appellant and the respondent about the compromise. They confirmed the terms of the compromise.

6. The 1st appellant, who is now no more, had three other daughters by name, Gopidesi Krishnaveni, Kanjeevaram Bhagyalakshmi and Canjeevaram soujanya. Those three daughters have filed supporting affidavits confirming the terms of compromise. In the terms of compromise, the respondent has agreed to allow the 2nd appellant to withdraw a sum of Rs.10,00,000/- (Rupees ten lakhs only) now held in deposit in L.A.O.P.No.81 of 1991 together with the interest accrued therein. This money actually was kept in deposit on behalf of the respondent.

7. Therefore, the Memo of Compromise is taken on record, the appeal is allowed and the judgment and decree of the Court below are set aside, and a decree is now be passed in terms of the compromise memo.

8. As a sequel, miscellaneous petitions, if any, pending in this appeal shall stand closed. There shall be no order as to costs.

V.RAMASUBRAMANI AN, J

T. AMARNATH GOUD, J

27th February, 2018
Js



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27th February, 2018.

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