

The Hon'ble Sri Justice V. RAMASUBRAMANIAN
and
The Hon'ble Sri Justice T. AMARNATH GOUD

APPEAL SUIT No.763 OF 2017

Date:24.01.2018

Between:

Pebbavarapu James S/o.Pavl Paparao,
Aged about 52 years, R/o.7-675, M.M. Road,
ONGole, Prakasam District, Rep. by his GPA holder,
Thella Pixly Johnson, S/o.Subbaiah, aged about 43 years,
R/o.D.No.7-6/ 137, Srinagar,Kurnool Road, Ongole,
Prakasam District

...Appellant

Vs.

Sunray Green Space Private Limited,
Rep. by its Managing Director, Sri Indukuri Apparalaraja Varma,
S/o.late Starama Raju, aged about 59 years, Having its
Registered Office at Door No.10-50-40, Ground Floor,
Excelsior Apartments, Opp.Lions Club, Ramnagar,
Visakhapatnam.

... Respondent

Counsel for Petitioner : Sri Venkateswara Rao Gudapati

Counsel for Respondent : Smt. MVSS Naga Sudha,
Spl.Vakalat holder.
Sri K. Sarvabhoma Rao

Gist :

Head Note :

Cases Referred : Nil

HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON' BLE SRI JUSTICE T. AMARNATH GOUD

APPEAL SUIT No.763 OF 2017

JUDGMENT: (per V. Ramasubramanian, J)

This is a regular appeal arising out of a decree for specific performance. The defendant is the appellant.

2. Pending appeal, the parties have entered into a compromise.

The Memo of Compromise reads as follows:

"1. Irrespective of the claims of both the parties in the litigation, the sale price of the subject matter of land is fixed @ Rs.31,00,000/- per acre. Out of it, an amount of Rs.15,00,000/- was already paid to the defendant as advance at the time of the sale agreement. The total amount of the subject matter land at the rate stated above comes to Rs.1,34,23,000/-. The remaining amount of Rs.1,19,23,000/- had already been deposited by the plaintiff in the above numbered suit account and is lying in it. The defendant appellant herein is entitled to draw the said amount of Rs.1,19,23,000/- immediately after executing and registering a regular sale deed in terms of this compromise. The plaintiff shall be entitled to withdraw the interest accrued in the above said deposit lying in the suit account and it shall be at liberty to withdraw the same after execution and registration of the sale deed.

2. The appellant/defendant agreed to withdraw the appeal filed by him and pending before this Hon'ble Court in AS No.763 of 2017 confirming the decree of the Principal District Judge, Vizianagaram. Each party shall bear its costs all through.

3. In view of the withdrawal of the appeal by this appellant, the plaintiff/respondent herein shall be entitled to have a decree for specific performance and shall be entitled to get a sale deed executed and registered at his costs and expenses in respect of the subject matter property without costs within ten days from the date of recording of this compromise. In case of default on the part of the appellant/defendant in getting such sale deed executed and registered, plaintiff shall be

entitled to get the decree executed through the process of the Court and appellant shall not be entitled to resist the same.

4. The defendant/appellant shall not be entitled to revoke, cancel or vary the General Power of Attorney executed by him in favour of his present Power of Attorney Holder – Sri Thella Pixli Johnson.

5. The appellant and his General Power of Attorney Holder hereby confirmed that the General Power of Attorney already existing is still in force without being revoked or cancelled.

6. After the execution of the sale deed as stated above, the defendant/appellant herein shall deliver the physical possession of the subject matter landed property to the plaintiff or to its nominee and in case of failure to do so by the defendant, the plaintiff shall be entitled to obtain the delivery through the process of the Court to which the defendant shall not be entitled to object.”

3. In view of the memo of compromise, the appeal is dismissed. The appellant is entitled to withdraw the amount of Rs.1,19,23,000/- deposited by the respondent before the Court below. If the said amount has been kept in fixed deposit and if it had accrued any interest then the said interest may be withdrawn by the plaintiff. The appellant shall execute a sale deed and present it for registration at the cost and expenses to be incurred by the plaintiff and also hand over possession within ten (10) days.

4. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

T. AMARNATH GOUD, J

January 24, 2018
KTL