

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2019

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

TOS.No.21 of 1998
and
Tr.C.S.No.855 of 1999

TOS.No.21/1998

N.Annamalai

... Plaintiff

-Vs-

1. V.K.Venkatesan (deceased)
2. Dr.A.Koteswaran
3. N.Saraswathi (deceased)
4. N.Ranganathan
5. V.Rajeshwari
6. K.Gnaneshwari

... Defendants

Tr.CS.No.855/1999

N.Ranganathan

... Plaintiff

-Vs-

1. N.Saraswathi (deceased)
2. N.Annamalai
3. V.Rajeshwari
4. K.Gnaneshwari

... Defendants

TOS.No.21/1998:- TOS numbered on conversion of O.P. on caveat being filed by the respondents in the O.P. and the Original Petition filed under Sections 232 and

276 of the Indian Succession Act XXXIX of 1925 for grant of Letters of Administration.

Tr.CS.No.855/1999:- The Transfer suit is listed on being transfer of OS.No.4289 of 1996 is filed under Order VII Rule 1 of CPC, praying for judgment and decree on the following terms:

- a) preliminary decree for partition of the plaintiff's share in the schedule mentioned property more fully described hereunder;
- b) to appoint a commissioner to divide the property into five equal shares and allot one such share to the plaintiffs;
- c) costs to come over the estate.

For Plaintiff : Mr.D.Rajagopal

For Defendants : Mr.V.Chandrababhu

COMMON JUDGMENT

The plaintiff and the defendants are present along with their respective counsels before this Court. It is submitted that the dispute between the parties has been amicably settled and they have filed joint compromise Memo signed by both the parties and the counsels. The terms of Compromise Memo read as follows:-

"1. The parties to the suit hereby mutually agreed to give up all their rights accrued under the Will dated 7/7/1984 which is marked as Ex.P1 in T.O.S.No.21 of 1998 and have mutually agreed to enjoy the suit property in the following manner.

2. The 4th defendant in the above suit namely N.Ranganathan has agreed not to object the Plaintiff's right over the 676 Sq.ft of land that is accrued under the Settlement deed dated 13.12.1984 which is marked as Ex.P3 in the above suit.

3. The parties have mutually agreed that the remaining extent of 4324 Sq. ft (after leaving the 676 Sq. Ft allotted to the plaintiff in the manner herein above agreed to) shall be divided equally between the Plaintiff and the 4th Defendant i.e., out of the remaining 4324 Sq. ft each will be entitled to 2162 Sq.ft.

4. The parties have mutually agreed that by the virtue of the above said settlement arrived at between them; the Plaintiff Mr.N.Annamalai would be entitled to a total of 2,838 Sq. ft (676+2162=2838 Sq. ft) undivided share and the 4th defendant Mr.N.Ranganathan would be entitled to 2162 Sq. ft undivided share from and out of the total extent of 5000 Sq. ft of the suit property.

5. The parties have mutually agreed that as on date there is an existing building one at the front portion of the property and one at the rear portion of the property and the said buildings would be continued to be enjoyed by the plaintiff and the 4th defendant as per their respective occupations as on date in 'as is where is condition' for a period of one year from date of the Compromise Decree.

6. The parties have mutually agreed that after the said period of one year the parties would demolish the existing superstructures upon the entire land and would jointly go for development of the said property to put up new construction.

7. The parties mutually agree that in the proposed new joint construction each party would be entitled to build up area in each floor of new building which is proportionate to their ownership,

provided by the builder towards the owner's share, over undivided share of land allotted to them as stated herein above i.e., 56.76% of built up area in each floor will go to Plaintiff Mr.N.Annamalai and 43.24% of built up area in each floor will go to 4th defendant Mr.N.Ranganathan.

8. The third defendant in the suit namely Mrs.N.Saraswathi died on 16.05.2008 leaving behind the plaintiff and defendants 4,5, 6 as her legal heirs. Mrs.V.Rajeswari and Mrs.K.Gnaneswari who are the sisters of the Plaintiff and 4th defendant have provided their consent for decreeing the above suit in the light of the above said compromise arrived at between the parties.

9. The defendants 5 and 6 have signed the above Joint Compromise and due to their health reasons they are unable to travel and appear before this Hon'ble Court for presenting the above Joint Compromise. In order to present this joint compromise on their behalf they have authorized the 4th defendant by way of a separate letter for presenting the above Joint Compromise before this Hon'ble Court.

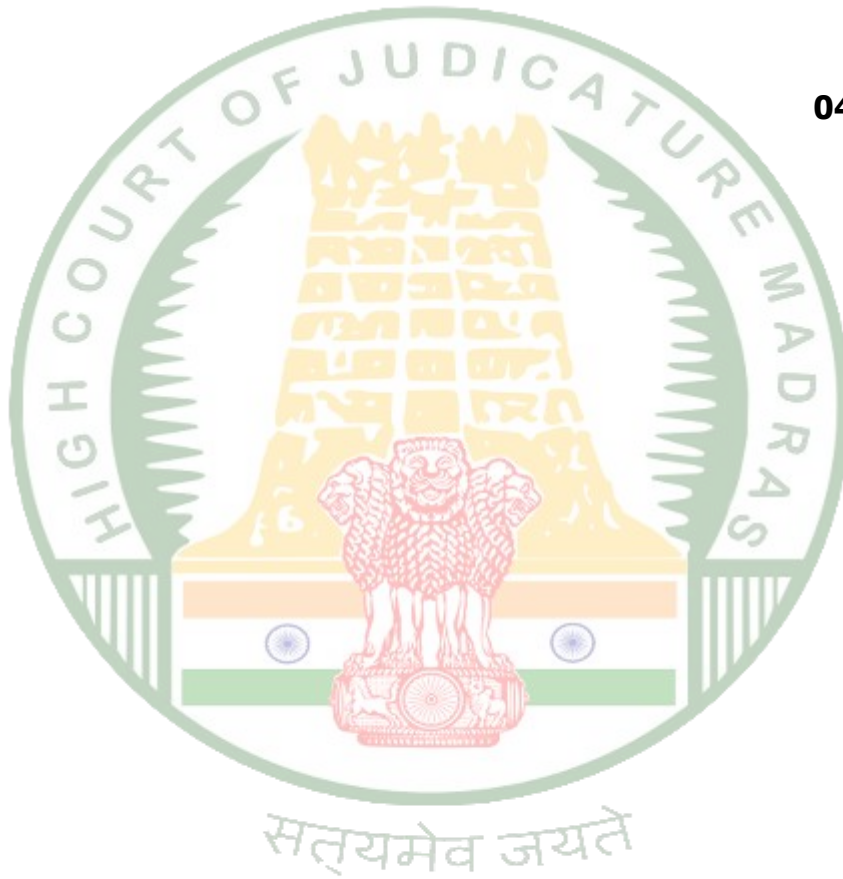
10. The other defendants namely Mr.V.K.Venkatesan (deceased) and Dr.A.Koteswaran are the husbands of defendants 5 and 6 and they are made parties to the suit only in the capacity of the executors of the Will dated 7.7.1984. The second defendant Dr.A.Koteswaran has also provided his consent for decreeing the above suit in the light of compromise arrived at between the parties.

11. In the light of the above said compromise the parties agree that both the suits viz. TOS.No.21/1998 and Tr.C.S.No.855/1999 be decreed in terms of the above compromise arrived at between the parties."

3. In the light of the above fact, both the Suits are disposed of in terms of Joint Compromise Memo. The Joint Compromise Memo shall form part of the decree.

KMI

04.11.2019

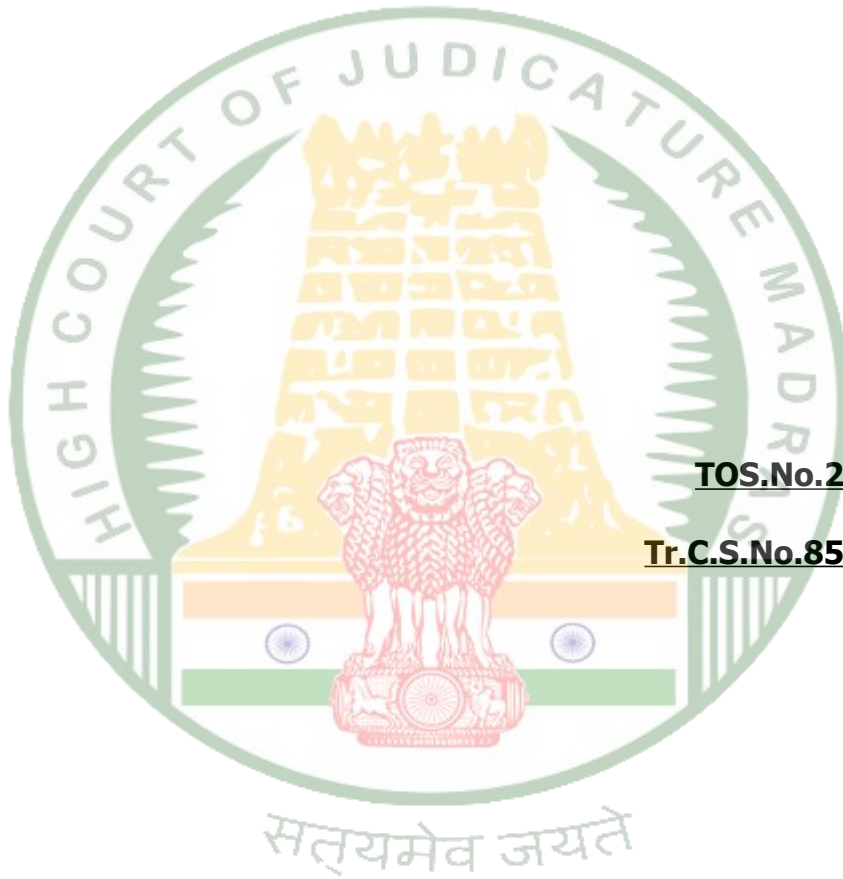


WEB COPY

TOS.No.21 of 1998 and
Tr.C.S.No.855 of 1999

K.KALYANASUNDARAM, J

KMI



TOS.No.21 of 1998
and
Tr.C.S.No.855 of 1999

WEB COPY

04.11.2019