

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :30.04.2019

CORAM

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

S.A.No.1221 of 2000
and
CMP.No.22945 of 2018

1. Subramanian
2. Sukumar
- 3.Venkatesan (deceased)
- 4.Ramalakshmi
(4th Appellant brought on record as LR of the deceased
3rd appellant LR of the deceased 3rd Appellant vide order
of the Court dated 20.12.17 made in CMP.No.17383 to
17385/17in S.A.No.1221 of 2000)

... Appellants/ defendants

Vs.

1. Rajkumar
2. Senthilkumar
- 3.Kavitha
- 4.Sangeetha
- 5.Rajamani
6. Rathinayyal
7. Santhakumari
- 8.Poongothai

... Respondents/Plaintiff 1 to 4/
Defendants 1 to 3&7

(RR3&4 are directed as major and the guardian Raj kumar discharged from guardianship vide order of Court dated 24.07.2009 made in CMP.No.822/09)

PRAYER: Second Appeal filed under Section 100 of C.P.C., to set aside the judgment and decree dated 13.03.2000 passed in A.S.No.6 of 1998 on the file of the Additional District Judge, Nagapattinam modifying the judgment and decree passed in O.S.No.46 of 1993 dated 30.07.1996 on the file of the Additional Sub-ordinate Judge, Mayiladuthurai.

For Appellants	: M/s. A. Muthukumar
For Respondents	:Mr. V.R. Appaswamee
1 to 4	: Mr.S.Thiyagarajan

JUDGMENT

This Second Appeal has been filed by the defendants 4 to 6 against the judgment and decree passed by the Additional District Judge, Nagapattinam in A.S.No.6 of 1998 dated 13.03.2000 modifying the judgment and decree passed by the Additional Sub-Judge, Mayiladuthurai in OS.No.46 of 1993 dated 30.07.1996.

2. The respondents 1 to 4 herein had filed a suit in O.S.No.46 of 1993 on the file of the Additional Sub-Judge, Mayiladuthurai for the relief of partition to divide the suit properties into 90 equal shares and allot 56 such shares to them. The learned Additional Sub-Judge, Mayiladuthurai by the judgment dated 30.07.1996 passed a preliminary decree as prayed for with costs and directed to divide the suit properties into 90 equal shares and allot 56 such shares to the plaintiffs. Aggrieved by the same, the defendants 4 to 6 filed an appeal in AS.No.6 of 1998 on the file of the Additional District Judge, Nagapattinam. 7th defendant had filed a cross-objection.

3. The learned Additional District Judge, Nagapattinam, by the judgment dated 13.03.2000, had partly allowed the said appeal and also the cross-objection and modified the judgment and decree passed by the trial court. He confirmed the judgment and decree of the trial court in respect of the Items 1 and 3 of the suit 'A' schedule properties and items 1 and 2 of the suit 'B' schedule properties, however, he dismissed the suit in respect of the Item No.2 of the suit 'A' schedule properties. Feeling aggrieved, the defendants 4 to 6 filed the present second appeal.

4. During pendency of the second appeal, the third appellant died and his legal representative (mother) has been impleaded as fourth appellant.

5. When this second appeal came up for hearing today, the appellants 1, 2 and 4 present with their advocate. The respondents 1 to 5 also present with their advocate. A compromise memo filed by the appellants 1, 2 and 4 and respondents 1 to 5 stating that they have compromised the issue and they requested to record the said compromise memo and dismiss the second appeal. The terms of compromise memo read over and explained to the parties. They admitted that they gone through the terms of the compromise and requested to record the said compromise memo and allow the second appeal and dismiss the suit in O.S.No.46 of 1993 on the file of the Additional Sub-Judge, Mayiladuthurai, in respect of the second item of the suit 'B' schedule property alone.

6. The compromise memo is recorded. Accordingly, the second appeal is partly allowed. The judgments and decrees of

the courts below are modified to the effect that the suit in O.S.No.46 of 1993 on the file of the Additional Sub-Judge, Mayiladuthurai, is dismissed in respect of Item No.2 of the suit 'B' schedule property. In respect of the other items, the judgment and decree passed by the first appellate court remains unaltered. The memo of compromise shall form part of the decree. Consequently, connected miscellaneous petition is closed. No costs.

*Here enclosed the Xerox Copy of Memo of Compromise.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

gv
To

1.The Additional District Judge,
Nagapattinam.

2.The Additional Sub-ordinate Judge,
Mayiladuthurai.

3. The Section Officer,
V.R. Section,
High Court, Madras.

+1cc to Mr.V.R.Appaswamee, Advocate SR.No. 42744

+1cc to Mr.A.Muthukumar, Advocate SR.No. 42450

S.A.No.1221 of 2000

and

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A.SK(27/02/2020)

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