

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-12-2019

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

A.S.No.556 of 2016

And

C.M.P.Nos.14172 and 14173 of 2016

1.A.B.Santha

2.A.B.Murali

.. Appellants/Plaintiffs

vs.

Miss.A.S.Kuppu Bai (now deceased)

1.A.S.Saroja Bai

2.Mrs.V.Shanthi Bai

3.A.C.Ramesh Sha

4.Dr.D.P.Mahendran

5.Mrs.M.Usha

6.L.Nargis Bai

7.A.C.Umapathy

8.V.Vasudevan

.. Respondents/Defendants

Appeal Suit is preferred under Section 96 of the Code of Civil Procedure read with Order 41, Rule 1 of the Code of Civil Procedure,

against the judgment and decree dated 15.02.2016 made in O.S.No.1450 of 2011 on the file of the learned VII Additional Judge, City Civil Court at Chennai.

For Appellants : Mr.N.Jayabalan
For Respondents-1,2 and 8 : Mr.N.Nagusah
Respondents-4 to 6 : Mr.N.Chandrasekar

J U D G M E N T

The learned counsel appearing on behalf of the appellants as well as the learned counsel appearing on behalf of the respondents 1, 2, 4 to 6 and 8 made a submission that the parties have settled the issues and accordingly, a compromise memo dated 18.12.2019 is filed by the appellants as well as the respondents 1,2, 4 to 6 and 8 and the same is extracted hereunder:-

**"COMPROMISE MEMO FILED BY THE APPELLANTS
AND THE RESPONDENTS 1,2, 4 TO 6 AND 8**

The Appellants and the Respondents 1, 2, 4 to 6 and 8 above mentioned beg to submit the following compromise memo:

1. The appellants and the respondents do hereby agree that the appellants shall jointly take the schedule Item No.4 property described hereunder as well as in the sketch annexed towards their joint share absolutely with full powers of alienation which was obtained by the

8th respondent by virtue of the Codicil dated 25.10.2004 registered as Doc.No.77 of 2004 at S.R.O. Joint I Kanchipuram executed by late A.S.Munusamy Sah in his favour and the respondents 1, 2 and 8 shall not claim any manner of right, claim or title over the item No.4 of the schedule property allotted to the joint share of the appellants.

2. The appellants and the respondents 1, 2 and 8 do hereby agree that the 8th respondent shall take the schedule item Nos.2 and 3 properties described hereunder as well as in the sketch annexed towards his share absolutely with full powers of alienation which was obtained by the 8th respondent by virtue of the Codicil dated 25.10.2004 registered as Doc.No.77 of 2004 at S.R.O. Joint I Kanchipuram executed by late A.S.Munusamy Sah and the appellants and the first respondent shall not claim any manner of right, claim or title over the schedule item Nos.2 and 3 properties allotted to the share of the 8th respondent.

3. The appellants and the respondents 1, 2 and 8 do hereby ratify the sale deed dated 14.12.2006 registered as Doc.No.3030 of 2006 at S.R.O. Periamet, executed by late A.S.Munusamy Sah, late Kuppu Bai and the first

respondent Saroja Bai in favour of the respondents 4 and 5 and the settlement deed dated 03.08.2009 registered as Doc.No.1346 of 2009 executed by fifth respondent in favour of the fourth respondent and settlement deed dated 10.08.2009 registered as Doc.No.1397 of 2009 executed by the fourth respondent in favour of sixth respondent in respect of schedule item No.1 property and the appellants and the respondents 1, 2 and 8 do hereby agree that they shall not claim any manner of right, claim or title over the schedule item No.1 property absolutely belonged to the respondents 4, 5 and 6.

4. In addition to the allotment of schedule item No.4 property towards the joint share of the appellants, the 8th respondent agreed to pay the sum of Rs.10,00,000/- (Rupees Ten Lakhs only) to the appellants and in pursuant thereto the 8th respondent had today paid a part payment of Rs.5,00,000/- (Rupees Five Lakhs only) to the appellants by way of cash i.e., Rs.2,50,000/- to the first appellant and Rs.2,50,000/- to the second appellant and the appellants do hereby acknowledge the receipt of the same and the 8th respondent agreed to pay the balance sum of Rs.5,00,000/- on or before 31.10.2020 to the appellants and in this regard

the 8th respondent had issued Cheque No.348932 dated 31.10.2020 for Rs.2,50,000/- in favour of the first appellant and Cheque No.348933 dated 31.10.2020 for Rs.2,50,000/- in favour of the second appellant, both drawn on M/s.Indian bank, Sunguvarchatram Branch, Kanchipuram, and both the appellants do hereby acknowledge the receipt of the same and if the above cheques are not honoured the 8th respondent shall pay interest @ 12% p.a. for such unpaid amount to the appellants till he make the payment and that there will be a charge over the schedule item No.2 and 3 properties till 8th respondent pays the said balance sum of Rs.5,00,000/- to the appellants.

5. The first respondent do hereby declare and confirm that she is already in possession of her family jewels including the jewels of her sister late Kuppu Bai and the jewels purchased by the 8th respondent for the first respondent and her sister Kuppu Bai.

6. The 8th respondent had today paid the sum of Rs.3,00,000/- to the first respondent in full quit of all of her rights, claims and title whatsoever if any she and her sister late Kuppu Bai had in any of the schedule properties and the first respondent do hereby acknowledge the

receipt of the said sum from the 8th respondent.

7. The appellants do hereby declare and confirm that they have taken the possession of the schedule item No.4 property allotted towards their joint share by attornment of tenancy from the tenant in occupation of the said shop portion. The 8th respondent agreed to give letter to that effect.

8. The appellants shall take necessary steps to obtain patta in their favour in respect of item No.4 property.

9. The 8th respondent do hereby declares and confirm that he is already in possession of the schedule item Nos.2 and 3 properties allotted towards his share.

10. The respondents 4, 5 and 6 do hereby declare and confirm that the schedule item No.1 property is already under their possession.

11. The appellants and the respondents 1, 2, 4 to 6 and 8 hereby undertake to execute and register all necessary documents.

12. The appellants hereby not press the suit reliefs A to D in O.S. No.1450 of 2011 on the file of VII Additional City Civil Court at Chennai.

13. The appellants not pressed the Suit and the above Appeal Suit against 3rd and 7th

respondents.

14. The appellants and the respondents 1, 2, 4 to 6 and 8 shall bear their respective costs.

In the interest of justice the appellants and the respondents 1, 2, 4 to 6 and 8 pray that this Hon'ble Court may be pleased to record the compromise memo and pass a Decree and Judgment in terms of the above Compromise Memo and thus render justice.

SCHEDULE

Properties taken by Respondents 4 & 6

Item No.1.

All that piece and parcel of house ground and premises bearing door No.13, New No.29, Iyya Mudali Street, Chintadripet, Chennai-2, measuring about 1629 sq.ft., comprised in R.S.No.385 of Chintadripet Village, Bounded on the North by: R.S.No.387, South by : R.S.No.384, East by : R.S.Nos.386 and 383 and West by : R.S.No.344 Iyya Mudali Street, situated within the Sub Registration District of Periamet and Registration District of Chennai Central.

Property taken by 8th Respondent

Item No.2

All that piece and parcel of house, ground and

premises bearing door No.29A, Sheikpet South Street, (Previously Saliyar Street), Kancheepuram measuring about 575 sq.ft., comprised in R.S. No.2087 of Kancheepuram Village bounded on the

North by : Door No.29B Sekkupet South Street,

South by : Property belonging to Venkoba Sah,

East by : Sheikpet South Street, (Previously Saliyar Street and

West by : Property belonging to Genga Sah

Situated within the Sub Registration District of Joint I Kancheepuram and Registration District of Kancheepuram.

The item No.2 property is marked with Blue colour in the sketch annexed.

Item No.3

All that piece and parcel of house, ground and premises bearing door No.29B, Sheikpet Sheikpet South Street, (Previously Saliyar Street), Kancheepuram measuring about 753 sq.ft. comprised in R.S.No.2086 of Kancheepuram Village bounded on the

North by : Door No.30 Sheikpet South Street, (Previously Saliyar Street),

South by : Door No.29A Sheikpet South Street,

East by : Sheikpet South Street and

West by : Property belonging to Genga Sah

Situated within the Sub Registration District of Joint I Kancheepuram and Registration District of Kancheepuram.

The item No.3 property is marked with Green colour in the sketch annexed.

Property taken to the Appellants

Item No.4

All that piece and parcel of house, ground and premises bearing door No.30, Sheikpet South Street, (Previously Saliyar Street) Kancheepuram measuring Northern side 30'2 feet, Eastern and Western side 20 feet and on South side 31 feet admeasuring about 627-1/2 sq.ft. comprised in R.S.No.2085 of Kancheepuram Village bounded on the

North by : Door No.31A Sheikpet South Street,

South by : Door No.29B Sheikpet South Street,

East by : Sheikpet South Street, and

West by : Property belonging to Ganga Sah

Situated within the Sub Registration District of Joint I Kancheepuram and Registration District of Kancheepuram.

The item No.4 property is marked with Violet colour in the sketch annexed."

सत्यमेव जयते

In view of the settlement arrived between the parties, the Court finds that no further litigation needs to be entertained in respect of the same.

4. Accordingly, the appeal suit stands disposed of in terms of the above compromise memo. However, there shall be no order as to costs. Consequently, the connected civil miscellaneous petitions are closed.

18-12-2019

Index : Yes/No.
Internet: Yes/No.
Speaking Order/Non-Speaking Order
Svn

To

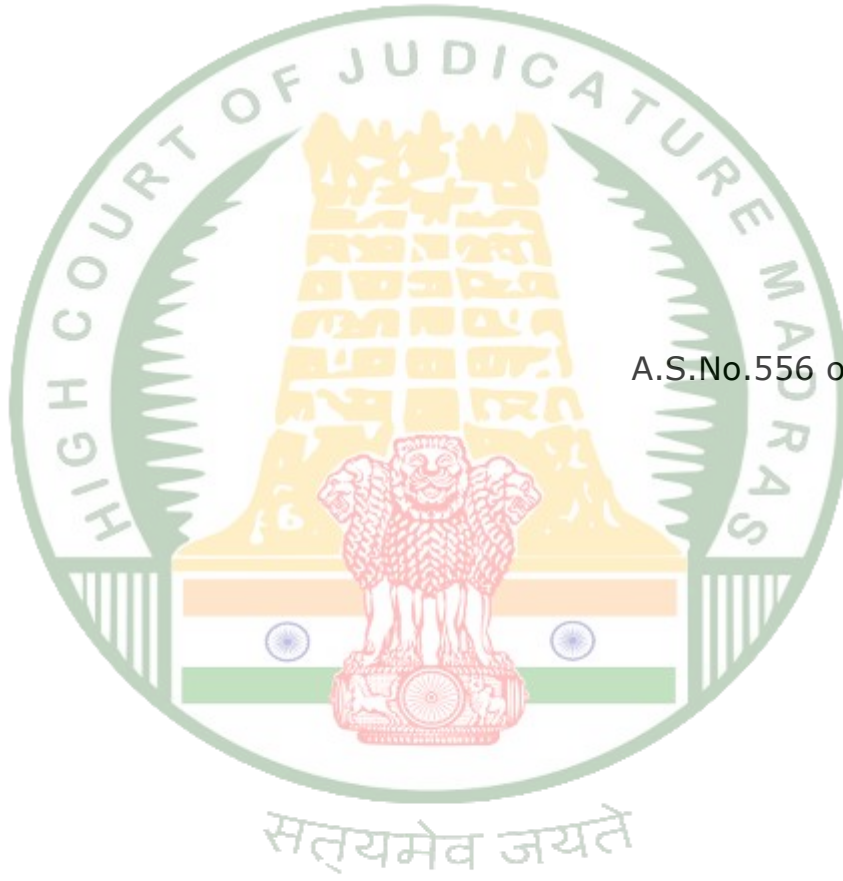
The VII Additional Judge,
City Civil Court,
Chennai.



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S.M.SUBRAMANIAM, J.

Svn



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