

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice C.SARAVANAN

A.S.Nos.983 of 2012 and 76 to 80 of 2013
and
M.P.Nos.1 of 2012 and 1 of 2013 (5 Nos.)

1.Krishnamurthy Reddiar
2.Prema .. Appellants in
A.S.No.983 of 2012/Defendant

1.V.Prabhakar Reddiyar
2.Venkata Prabhu ... Appellants in
A.S.No.76 of 2013/Defendant

Prabhakar Reddiyar .. Appellant in
A.S.Nos.77 to 80 of 2013/Defendant/
Plaintiff/1st Defendant

Vs

Prabhakar Reddiar .. Respondent in
A.S.No.983 of 2012/ Plaintiff

Krishnamoorthy .. Respondent in
A.S.Nos.76 and
78 of 2013/ Plaintiff

1.Krishnamoorthy Reddiyar
2.Prema .. Respondents in
A.S.No.77 of 2013 /Defendant

1.Krishnamoorthy
2.Balachander .. Respondents in
A.S.Nos.79 and 80
of 2013/ Plaintiff /2nd Defendant

Appeals preferred under Order 41 Rule 1 r/w 95 C.P.C.
against the judgment and decree dated 06.07.2012 passed in
O.S.Nos.2, 1, 2, 3 of 2004 and 149 of 2010 and 154 of 2010
on the file of the I Additional District and Sessions
Court, Cuddalore.

For Appellants .. Ms.Hema Sampath,
Sr. Counsel
for Mr.R.Meenal
in A.S.No.983 of 2012

Mr.P.Mani in A.S.Nos.76 to 80
of 2013

For Respondents .. Mr.P.Mani in A.S.No.983 of 2012

Ms.Hema Sampath,
Sr. Counsel
for Mr.R.Meenal
in A.S.Nos.76 to 80 of 2013

COMMON JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

These appeals are directed against the order dated 06.07.2012 passed in O.S.Nos.2, 1, 2, 3 of 2004 and 149 of 2010 and 154 of 2010 on the file of the I Additional District and Sessions Court, Cuddalore.

2.When the matter is taken up for hearing, it is submitted that the matter has been resolved between the parties and a memorandum of compromise dated 18.03.2019 duly signed by the parties and attested by their respective counsel, has been filed. The memorandum of compromise reads as under:

"It is submitted as follows:

The parties hereto have arrived at a compromise to settle all the above six appeals on the following terms and conditions:

1.Krishnamoorthy Reddiar and his wife Prema jointly and severally shall pay to V.Prabhakar Reddiar a total sum of Rs.17,50,000/- (Rupees seventeen lakhs and fifty thousand only) strictly within three months from the date of signing this memo of compromise.

2.In addition to the amount mentioned in clause 1, V.Prabhakar Reddiar is also entitled to withdraw the Rs.3,00,000/- (Rupees Three Lakhs

only) which has been deposited by Krishnamoorthy Reddiar to the credit of E.P.No.26 of 2014 in Cuddalore O.S.No.2 of 2004 on the file of the Principal District Court, Villupuram pursuant to the order passed in E.A.40 of 2014. V.Prabhakar Reddiar is also entitled to withdraw the interest accrued on this amount. V.Prabhakar Reddiar is also entitled to withdraw the interest accrued on this amount. V.Prabhakar Reddiar can file necessary petition for payment out without getting no objection from Krishnamoorthy Reddiar and his wife for the withdrawal of the said amounts and interest.

3.Krishnamoorthy Reddiar shall forthwith cancel the two mortgage deeds dated 31.12.1985 and 08.04.1986 respectively executed by V.Prabhakar Reddiar. Krishnamoorthy Reddiar shall issue discharge receipt and get it registered in the office of the jurisdictional Sub Registrar.

4.V.Prabhakar Reddiar shall forthwith cancel the attachment made by him on the properties of Krishnamoorthy Reddiar pending suit/Execution Petition in E.P.No.26 of 2014 in Cuddalore O.S.No.2 of 2004 on the file of the Principal District Court, Villupuram and make necessary endorsement for raising the attachment, if required, after the payment of the amount mentioned in clause 1 by Krishnamoorthy Reddiar to V.Prabhakar Reddiar.

5.No amount is due from V.Prabhakar Reddiar and his son Venkataprabha to Krishnamoorthy Reddiar under the two pronotes dated 15.01.1994 and 21.04.1986 and the two mortgage deeds dated 31.12.1985 and 08.04.1986 and the decree dated 06.07.2012 passed in O.S.Nos.1&3/04, 149 and 154 / 2010 on the file of the I Additional District and Sessions Court, Cuddalore as the amounts due under the said decrees have been fully and finally satisfied in view of the present compromise arrived at between the parties.

6.The parties hereto will bear their respective costs.

7.On the satisfaction of the above terms, the parties hereto will have no further claim whatsoever against each other with respect to the above appeals/suits.

It is therefore prayed that this Hon'ble Court may be pleased to record the above memorandum of compromise and permit the parties hereto to withdraw the court fee paid in the respective appeals and thus render justice.

3. These appeal suits stand disposed of in terms of the memorandum of compromise dated 18.03.2019 and the memorandum of compromise shall form part of the decree. No costs. consequently, connected miscellaneous petitions are closed.

4. Learned senior counsel appearing for the appellants in A.S.No.983 of 2012 and the learned counsel appearing for the appellants in A.S.Nos.76 to 80 of 2012 would submit that in view of the compromise entered into between the parties, the court fee paid may be directed to be refunded to the appellants and they have also produced a copy of the judgment passed by the Madurai Bench of this Court in A.S. (MD) No.207 of 2015 dated 11.01.2019.

5. Considering the above submission, Registry is directed to refund the entire court fee to the respective appellants.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mmi

To

The I Additional District and
Sessions Court,
Cuddalore.

+lcc to Mr.R.Meenal , Advocate SR.No. 27150

+lcc to Mr.P.Mani , Advocate SR.No. 26949

A.S.Nos.983 of 2012
and 76 to 80 of 2013

sp (CO)
A.SK(15/05/2019)