

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2019

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Second Appeal No.296 of 2018

S.Sathiyanarayanan ... Appellant/Plaintiff

Vs.

1. Chellammal

2. S.Dhanalakshmi

3. G.Srinivasan

4. D.Banumathi

5. Dhanasekaran

... Respondents/Defendants

Prayer:- This second appeal has been filed under Section 100 C.P.C., against the judgment and decree made in A.S.No.20 of 2016 dated 06.10.2017 on the file of the Additional Subordinate Judge, Chengalpattu reversing the Judgment and decree of the trial court passed in favour of the appellant made in O.S.No.102 of 2010 dated 26.11.2015 on the file of the District Munsif, Chengalpattu.

For Appellant : Mr. M.R.Senthilkumar

For respondents : Mr. S.Veeraraghavan
for R1 to R5

JUDGEMENT

The plaintiff has filed the present Second Appeal.

2. The plaintiff filed a suit in O.S.No.102 of 2010 on the file of the Principal District Munsif, Chengalpattu, for the following relief :-

"a) to declare the settlement deed dated 18.07.2008 bearing document NO.5368 of 2008 on

the file of the S.R.O.Thiruporur by 1st defendant in favour of the plaintiff with respect to suit properties as valid and acted upon and to grant the consequential relief of permanent injunction against the 1st defendant with the assistance of the defendants 2 to 5 restraining the defendants, their men, agents and servants from in any way creating any documents or encumbrance over the schedule mentioned properties;

b) to declare the cancellation deed dated 20.08.2008 by the first defendant with regard to the above said settlement deed dated 18.07.2008, as null and void as the same was not executed as per law and proceedings;

c) to direct the defendants to pay the costs of the suit to the plaintiff "

3. The trial Court, decreed the suit by judgment and decree dated 26.11.2015. Challenging the judgment and decree, the defendants filed an appeal in A.S.No.20 of 2016 on the file of the Additional Subordinate Court, Chengalpattu. The First Appellate Court by judgment and decree dated 06.10.2017 reversed the judgment and decree passed by the trial court and allowed the appeal and consequently, dismissed the suit. Now, challenging the same, the present second appeal has been filed.

4. Today, when the matter is called , the learned counsel appearing for the appellant and the respondents submitted that pending Second Appeal, the parties have arrived at a settlement between themselves and also entered into a compromise and also filed a compromise memo to that effect. The memo of compromise is duly signed by the appellant and respondents and their respective counsel. The counsel appearing for the parties submitted that the suit may be decreed as per the terms of the compromise memo and the terms of the compromise memo reads as follows :-

" 1. All the parties herein agrees to sell the land jointly measuring an extent of 2.61 acre out of 2.86 acres comprised in S.No.6, Othivakkam Village, and agree to retain the balance land measuring 0.25 cents. The sale amount will be divided into three equal shares and the first, third and fifth part alone is entitled to receive each one share.

2. All the parties herein agrees that as far as balance land measuirng 0.25 cents is

concern the first, third and fifth part having equal share.

3. All the parties in this compromise memo are agrees that the land measuring an extent of 0.47 cents comprised in Survey No.1/1, and land measuring an extent of 0.38 cents comprised in Survey No.1/3, and land measuring an extent of 0.78 cents comprised in Survey No.3/3, in all aggregating to 1.63 acre situated at Village No.18, Othivakkam Village, Chengalpet Taluk, Kancheepuram District is concern, the first , third and fifth part are having equal shares.

4. All the Movable and immovable properties belonging to the family i.e. in the name of either MR. Sanjeeve Raju or Mrs. Chellammal or in the name of both, to be divided an equal share among the first, third and fifth part.

5. If the parties are willing to sell jointly any part or whole of the property to any third party, the sale consideration amount will be divided an equal share among the first, third and fifth part.

6. All the parties herein agrees that after the decree was passed based on the memorandum of compromise, the parties herein will register the partition deed before the Sub-Registrar on their respective charges.

7. All the parties herein specifically agrees that they will given up all their claims and rights whatsoever for the property allotted to the share of other parties.

8. All the parties herein agree to execute any affidavit, deeds or indenture to other parties for their betterment of title.

9. If anyone of the parties herein decided to sell his/her share to third party, other parties agrees to sign in the sale deed as conformity party.

10. The First part is agrees to withdraw all the suits, claims, complaints and representation if any pertaining to the family properties filed by him as against the party of second to six part either disposed or pending.

11. The second to sixth part are agrees to withdraw all the suits, claims, complaints and

representation if any pertaining to the family properties filed by them as against the party of the first part either disposed or pending.

12. All the parties in this compromise memo are hereby agrees and undertake that they will not interfere or disturb in any manner to each other in future.

13. All the parties in the compromise memo are entering this compromise memo on their own will and consent, without any coercion or compulsion. "

5. Today the appellant and the respondents present. They have also agreed that they have settled the dispute between themselves.

6. Considering the fact that the matter has been settled between the parties, the second appeal is decreed in terms of the compromise memo. The said compromise memo shall form part of the decree. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Additional Subordinate Judge, Sub Court, Chengalpattu.
2. The District Munsif, Chengalpattu.
3. The Section Officer, V.R.Section, High Court, Madras.

+1 cc to Mr.M.R.Senthilkumar, Advocate Sr.No.30735

+1 cc to Mr.S.Veera Raghavan, Advocate Sr.No.31738

CSL/10.04.2019

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