

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28..02..2019

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Second Appeal Nos.830 and 831 of 2016
and

C.M.P.Nos.16104 and 16105 of 2016

S.A.No.830 of 2016

1.Kiliammal

Chandrakantha (deceased)

[Cause Title accepted by order dated 20.03.2015 made
in M.P.No.1 of 2015 in SA SR No.47206 of 2014]

.... Appellants

-Versus-

1.Sarasu

2.M.Vinayagam

3.M.Kumaresh

4.M.Uma

5.The DP. Do/Vellore/F.C-LTA/T.S.32370,
Vellore.

6.The Officer in charge Records,
Madras Regiment Wellington,
The Nilgiris.

7.The Recruiting Officer,
Chennai.

... Respondents

This second appeal is filed against the judgement and decree dated 31.10.2013 made in A.S.No.20 of 2012 by the Subordinate Judge, Tirupattur, confirming the judgement and decree dated 16.04.2012 made in O.S.No.46 of 2005 by the learned District Munsif, Tirupattur.

S.A.No.831 of 2016

1.Kiliammal

Chandrakantha (Since Deceased)

[Cause Title accepted by order dated 20.03.2015 made in
M.P.No.1 of 2015 in SA SR No.47205 of 2014]

... Petitioner

-Versus-

1.Sarasu

2.M.Vinayagam

3.M.Kumaresh

4.M.Uma

5.The DP.Do/Vellore/F.C-LTA/T.S.32370,
Vellore.

6.The Officer in charge Records,
Madras REgiment Wellington,
The Nilgiris.

7.The P.C.D.A.(P) Draupathi,
Allahabad, North India.

8.The Assistant Director of Ex-Servicemen Welfare,
Vellore.

9.The Pension Officer,
Ex-Defence Servicemen
Pension Officer Ex-Servicemen,
Katpadi Vellore.

10.The Pension and Family Pension of
Defence Service Personnel Controller Accounts,
Teynampet, Chennai.

... Respondents

This second appeal is filed against the judgement and decree dated 31.10.2013 made in A.S.No.22 of 2012 by the Subordinate Judge, Tirupattur, confirming the judgement and decree dated 16.04.2012 made in O.S.No.539 of 2004 by the learned District Munsif, Tirupattur.

For Appellant(s)

: Mr.M.V.Venkataseshan for
appellant in both the
second appeals

For Respondents(s)

: Mr.E.Kannadasan for R1
to R4 in both the second
appeals

COMMON JUDGMENT

The 1st plaintiff in O.S.No.46 of 2005, who was also arrayed as 7th defendant in O.S.No.539 of 2004 on the file of the learned District Munsif, Tirupathur, is the appellant in both the appeal. The suit in O.S.No.539 of 2004 was filed by one Sarasu, M.Vinayagam, M.Kumaresh and Uma for a declaration declaring that 1st plaintiff is the legally wedded wife of the deceased Murugesan and the plaintiffs 1 to 4 are the legal heirs of the deceased Murugesan and they are entitled to receive the death cum retirement benefits payable on account of the death of the deceased employee - Murugesan and the 1st plaintiff is entitled to receive pension; and for permanent injunction restraining the defendants 1 to 6 from making payment of any amount to the defendants 7 and 8.

2. The suit in O.S.No.46 of 2005 was filed by Kiliammal and Chandrakantha for a declaration declaring that the plaintiffs are the legal heirs of the deceased Murugesan and entitled to receive the death cum retirement benefits payable on account of the death of Murugesan and also the family pension pension amount and for permanent injunction restraining the defendants 5 to 7 from disbursing the death cum retirement benefits of Murugesan to the defendants 1 to 4. By common judgement and decree dated 16.04.2012, the learned District Munsif, Tirupathur, decreed the suit in O.S.539 of 2004 as prayed for and dismissed the other suit in O.S.No.46 of 2005. Aggrieved by the same Mrs.Kiliammal and Chandrakantha preferred appeal in A.S.Nos.20 and 22 of 2012 before the learned Sub Judge, Tirupathur and the same were dismissed on 31.10.2013. Thereafter, Mrs.Chandrakantha, the 2nd plaintiff in O.S.No.46 of 2005 and 8th defendant in O.S.No.539 of 2004 died. Further aggrieved by the said common judgement and decree, Mrs.Kiliammal is before this court with these second appeals.

3. Pending appeals, according to the learned counsel on either side, the parties had settled the disputes amount themselves and entered into a compromise in writing. The learned counsel for the appellant and the learned counsel for the respondents 1 to 4 prayed this court that the both the second appeals may be dismissed recording the joint memo of compromise. A joint memo of compromise entered into between the appellant and the respondent 1 to 4 has been filed today. The appellant and the respondents 1 to 4 were present. On enquiries, they admitted that the matter was settled amicably among themselves. The appellant has specifically admitted that today she had received a sum of Rs.1,25,000/- from the respondents 1 to 4. The terms of joint memo of compromise reads as follows:-

- (i) The respondents 1 to 4 offered to give for a sum of Rs.2,25,000/- to the

appellant towards her share and the appellant also accepted their offer.

(ii) The appellant agreed to withdraw the above appeal and also agreed to return all the original documents, which were filed before the learned District Musnif, Thiruppathur, Vellore District in O.S.No.539 of 2004 as exhibits on her side by filing proper application.

(iii) The appellant agreed that she will not make further claim in any form from the respondents 1 to 4 and also agreed that she will not object them from getting death benefits and retirement benefits of deceased Murugesan from the Indian Army.

(iv) The respondents 1 to 4 today, i.e., 19.12.2018 out of Rs.2,25,000/- (Rupees Two Lakhs Twenty Five Thousand only) Rs.1,00,000/- (Rupees One Lakh only) in cash and the remaining amount of Rs.1,25,000/- (Rupees one Lakh Twenty Five Thousand only) will be paid by them at the time of recording compromise memo before this Hon'ble Court. The appellant accepted and received the cash of Rs.1,00,000/- (Rupees One Lakh only) and put her signature in this joint compromise memo."

4. Recording the joint memo of compromise, the second appeals are dismissed. The joint memo of compromise shall form part and parcel of the decree. No costs. Consequently, connected CMPs are closed.

Xerox Copy of Joint Compromise Memo attached.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

kmk

To

1.The Subordinate Judge,
Tirupattur,
Vellore District.

2.The District Munsif,
Tirupattur,
Vellore District.

+2cc to Mr. E.Kannadasan, Advocate, S.R.No. 19119, 19118

Second Appeal
Nos.830 and 831 of 2016

AD(CO)
GN(13/03/2019)



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