



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 28.11.2019
CORAM

THE HONOURABLE MRS. JUSTICE J.NISHA BANU
APPEAL SUIT (MD) No.233 of 2015

WEB COPY

Rajendra Prasad(died)
1.Vijayakumar
2.Sanjeevee Kumar
3.Ganesan
4.Rani @ Pappi

... Appellants /Defendants 5, 6, 7 & 10

Vs.

1.Sathyamoorthi
2.Pushpadevi
3.Manorama Devi
4.Lalitha
5.Ravikumar
6.Susila
7.Rajeswari

... 1st respondent/Plaintiff

... Respondents/Defendants 2, 3, 4, 8, 9 & 11

(The 3rd appellant herein is declared as major and the 4th appellant is relieved from guardianship, as per the separate order of this Court dated 28.11.2019 passed in C.M.P.(MD).Nos.11495 and 11498 of 2019)

PRAYER: Appeal filed under Order 41 Rule 1 r/w Section 96 of C.P.C., against the judgment and decree, dated 23.12.2014, passed in O.S.No.27 of 2005 by the Additional District Court, Pudukkottai.

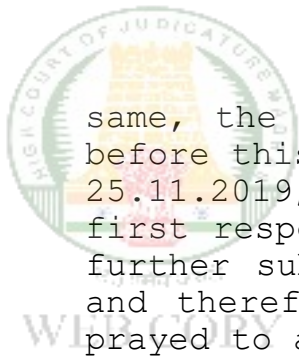
For appellants ... Mr.K.Baalasundharam
For 1st respondent ... Mr.D.Ramesh Kumar
For respondents 2 to 4 ... No appearance

JUDGMENT

This appeal suit has been filed by the appellants/ defendants 5 to 7 & 10 against the judgment and decree, dated 23.12.2014, passed by the trial Court in O.S.No.27 of 2005, whereby and whereunder the Court below has decreed the suit as prayed for.

2.Though the respondents 2 to 4 served with notice and their names are printed in the cause list, none appeared on behalf of them.

3. Today, when the matter came up for hearing, the learned counsel appearing for the appellants/defendants 5 to 7 & 10 and the first respondent/plaintiff submitted that the dispute between the parties have been settled and they have also entered into a compromise. They would submit that in order to substantiate the



same, the appellants as well as the first respondent have appeared before this Court today and they filed a Joint Compromise memo dated 25.11.2019, which was signed by both the appellants as well as the first respondent and their respective counsel on record. They would further submit that the respondents 2 to 7 are only formal parties and therefore, their appearance may be dispensed with. Thus, they prayed to allow this appeal in terms of the Joint Compromise Memo.

4. The Joint Compromise Memo, dated 25.11.2019, reads as follows:

"1.It is submitted that the plaintiff/1st respondent herein filed a suit for partition in O.S.No.27 of 2005 on the file of the Additional District Court, Pudukkottai claiming half share in suit property. The trial Court decreed the suit as prayed for on 23.12.2014. Aggrieved against the same, the appellants 1 to 4 (Vijayakumar, Sanjeevkumar, Minor.Ganesh, Rani @ Puppy) have preferred the first appeal in A.S.No.233 of 2015 before this Hon'ble Court and the same is pending.

2.The case of the plaintiff is that the 2nd respondent namely Pushpadevi, 3rd respondent Manoramodevi executed a sale deed dated 14.07.2000 in respect of their shares in favour of the 4th respondent herein namely Lalitha. Subsequently, the 4th respondent Lalitha executed a sale deed dated 16.02.2001 in favour of the plaintiff/1st respondent herein. It is submitted that on the basis of the sale deed plaintiff/1st respondent herein filed a suit for partition against the appellants and the respondents 2 to 7. It is submitted that the respondents, 2, 3, 4 are the formal parties in the appeal because already they have executed a sale deed in favour of plaintiff/1st respondent in respect of the suit property. It is submitted that the appellants and respondents 4 to 7 were sailed together in the suit and the appellants also have not sought any relief as against the respondents 4 to 7 herein.

3. It is submitted that out of the Court compromise was arrived between the 1st respondent/plaintiff and appellants herein. As per the compromise, the 1st respondent/plaintiff received a total sum of Rs.40 lakhs by way of 3 demand drafts bearing Nos.004480 for Rs.20 lakhs, bearing No.004481 for Rs.10 lakhs and demand draft bearing No.004482 for Rs.10 lakhs obtained from HDFC Bank, Pudukkottai Branch dated 13.10.2016. The plaintiff/1st respondent has obtained a decree for $\frac{1}{2}$ shares in respect of the suit property under



file of the Additional District Judge, Pudukkottai. As per the compromise arrived, the 1st respondent/plaintiff relinquished his right and share in the suit property to the appellants and respondents 4 to 7 herein.

4.It is submitted that as per the compromise, the appellants 1 to 4 (Vijayakumar, Sanjeevkumar, Minor.Ganesh, Rani @ Puppy) and respondents 5 to 7 (Ravikumar, Susila, Rajeshwari) are entitled to the share and right relinquished by the 1st respondent/plaintiff in respect of the suit property. The appellants and respondents 5 to 7 are entitled to the mutation of revenue records, Municipal Records, Electricity and other records relating to the property in their name and thereby the appellants and respondents 5 to 7 become absolute owners of the suit property.

5.It is submitted that since the respondents 2 to 7 herein are formal parties in the appeal their appearance may not be necessary for recording the compromise. Hence, this Hon'ble Court may dispense with appearance of respondents 2 to 7 herein and permit the appellants and 1st respondent herein to record their compromise and both the parties shall abide by the conditions as per the memo. The parties to the compromise memo undertake to state that they shall abide by the memo."

5. The above submission of the learned counsel for the appellants as well as the first respondent are recorded.

6. In view of the above, this appeal suit is allowed in terms of the Joint Compromise Memo dated 25.11.2019. The Joint Compromise Memo shall form part and parcel of this judgment and decree. Both the parties are directed to adhere to the terms of compromise in letter and spirit. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

gcg



Encl.:Xerox Copy of Joint Compromise Memo

To

The Additional District Judge,
Pudukkottai.

Copy to:

The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

A.S.(MD) No.233 of 2015
28.11.2019

MK (23.01.2020) 4P 4C