

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

I.A.No.1 of 2019

IN/ AND

SECOND APPEAL No.154 of 2015

COMMON JUDGMENT:

This second appeal is filed by the defendant against the Judgment and Decree dated 26.03.2013 passed by the I Additional District Judge, Warangal, in Appeal Suit No.29 of 2009 (for short, the 'first appellate Court'). By the impugned judgment, the first appellate Court dismissed the appeal, thereby affirming the judgment and decree passed by the I Additional Senior Civil Judge, Warangal (for short, 'the trial Court') in O.S.No.160 of 2003 whereby and whereunder the trial Court preliminary decreed the suit with costs declaring the plaintiffs 2 to 6 as entitled to one-half share in the suit schedule property.

O.S.No.160 of 2003 was filed before the trial Court for partition and passing a preliminary decree declaring the plaintiffs 2 to 6 as entitled to half a share in the suit schedule property, and to pass final decree by appointing commissioner to divide the schedule property into two equal shares and allot one-half share to the plaintiffs by metes and bounds and to award the costs of the suit.

The trial Court, after due enquiry, decreed the suit declaring that the plaintiffs 2 to 6 are entitled to one-half share in the suit schedule property, and granting liberty to them to file a petition for passing final decree for their one-half share by metes and bounds.

Aggrieved by the judgment and decree passed by the trial Court, the defendant filed an appeal before the first appellate Court, in A.S.No.29 of 2009, and the said appeal came to be dismissed, vide judgment and decree dated 26.03.2013. Challenging the same, the defendant filed the present second appeal.

This Court, vide order dated 29.09.2015 in S.A.M.P.No.438 of 2015, granted stay of passing final decree only, while directing all other proceedings may go on.

Now, the present application I.A.No.1 of 2019 is filed with a Joint Memo of Compromise stating that both the parties have entered into a compromise and, as per the terms of compromise dated 21.07.2019, the defendant/appellant shall pay an amount of Rs.2,50,000/- each to the 2nd respondent, 3rd respondent and 4th respondent by way of Demand Draft Nos.554867, 554868 and 554866 (all dated 18.07.2019), respectively, and also agreed to purchase tiled house worth Rs.6,00,000/- and get the sale deed in the name of 5th respondent within six months from today; and as a consequence of entering into the compromise, the respondents have agreed to relinquish their shares as decreed under the Judgment and Decree dated 17.07.2008 in O.S.No.160 of 2003 and as affirmed in appeal in A.S.No.29 of 2009 dated 26.03.2013, infavour of the defendant. And also, as per the terms of compromise, the 2nd respondent had agreed to withdraw O.S.No.568 of 2003 filed by her seeking partition of the plaint schedule property against the defendant, and her sisters who are respondents 3, 4, 5 and 6, which is pending as A.S.No.98 of 2016 before the Principal District Judge, Warangal. It is further recorded in the terms of compromise that the defendant had agreed to withdraw the Criminal Petition No.5053 of 2017 pending before this Court against the respondents.

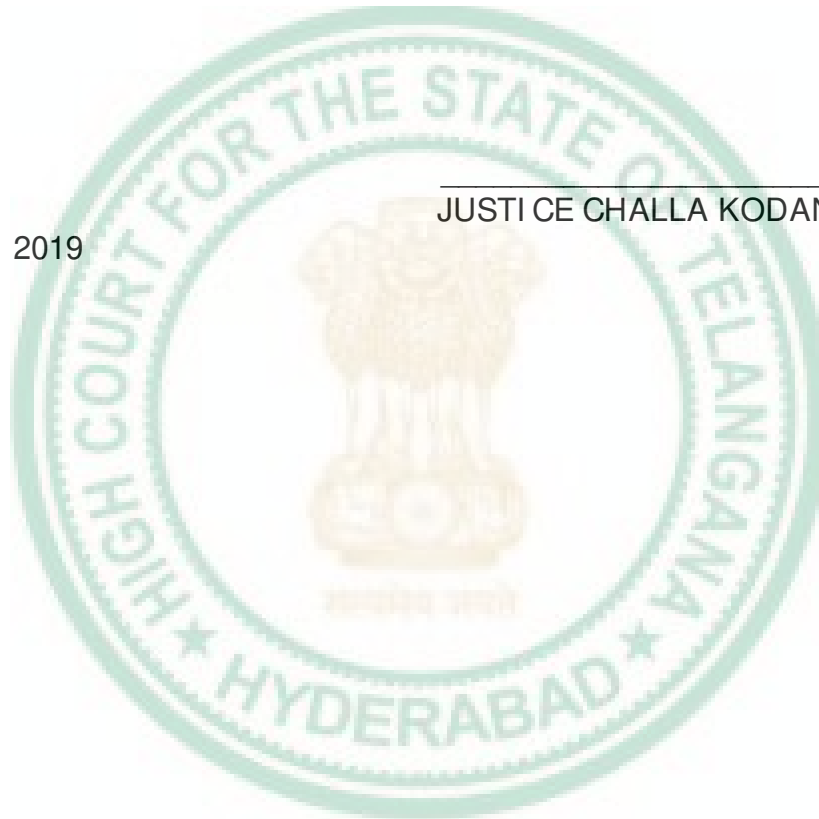
The appellant/defendant and the respondents/plaintiffs are present before the Court today, and they are identified by their respective counsel. The parties have stated that they have amicably settled the matter by way of compromise and that the second appeal may be disposed of in terms of the compromise entered into between the parties.

In those circumstances, I.A.No.1 of 2019 is allowed, and the second appeal is disposed of recording the compromise entered into by the parties. No costs. Pending miscellaneous petitions, if any, shall stand closed.

22nd July, 2019

KSM

JUSTICE CHALLA KODANDA RAM



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