

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.09.2020

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.S.Nos.171, 468 & 481 of 2019

&

A.No.3816 of 2019

&

O.A.No.213 of 2019

C.S.No.171 of 2019:

S.Ramasubramanian

... plaintiff

Vs.

1.M.Umamaheswari

2.V.Muthukrishnan

3.M.R.Saraswathi

... defendants

Prayer: Plaint under Order IV Rule 1 of the Original Side Rules read with Order VII Rule 1 of CPC praying to declare the plaintiff has clear title in respect of 40% of the suit schedule property.

C.S.No.468 of 2019:

S.Ramasubramanian

... plaintiff

Vs.

1.M.Umamaheswari

2.U.R.Adithya

3.V.Muthukrishnan
defendants

...

Prayer: Plaint under Order VII Rule 1 of the Code of Civil Procedure to
declare the plaintiff is the absolute owner of the suit schedule property

C.S.No.481 of 2019:

S.Ramasubramanian

... plaintiff

Vs.

1.M.Umamaheswari

2.V.Muthukrishnan
defendants

...

Prayer: Plaint under Order VII Rule 1 read with Section 26 of the Code of Civil Procedure to pass Judgement and Decree in favour of the plaintiff declaring that the plaintiff has clear title in respect of 75% of suit Schedule property.

For Plaintiff : Ms.K.Sumathy

For Defendants : Mr.R.Singaravelan
Senior Counsel
for Ms.K.Janani

ORDER

The main contesting parties in all the suits are plaintiff and the 1st defendant herein, who were married on 15.07.1998 at Trichi. The parties have initially lived together at Chennai and separated in the year 2017. Out of this wedlock a son, U.R.Adithya was born to the couple on 14.02.1999. The dispute between two had snowballed into an irreconcilable one and the families of both parties were also involved in the litigations. The parties are referred to by their names for ease of

understanding.

2. Umamaheswari filed a petition for divorce in H.M.O.P.No.641 of 2017 on the file of the Sub Court at Tambaram, this was followed by the suit for partition in C.S.No.171 of 2019 being filed by Ramasubramanian against Umamaheswari and his in-laws. Umamaheswari has filed a counter-claim in this suit. This was followed by two other suits in O.S.No.182 of 2019 and O.S.No.198 of 2019 being filed on the file of the Sub Court at Poonamallee and the Principle District Court, Chengalpet respectively by Ramasubramanian. These suits have been transferred to the file of this Court and re-numbered as C.S.No.468 of 2019 and C.S.No.481 of 2019 respectively.

3. The parties ultimately decided to resolve their disputes and after negotiations had entered into a memorandum of compromise which was signed by the parties on 10.03.2020 and counter signed by their respective lawyers. One of the terms of this memorandum of compromise is that Umamaheswari agrees to withdraw H.M.O.P.No.641 of 2017 on the file of

the Sub Court, Tambaram and Ramasubramanian agreed to withdraw the suits in C.S.Nos.171, 468 & 481 of 2019 on the file of this Court. Both Ramasubramanian and Umamaheswari have agreed to jointly file a petition for divorce by mutual consent before the Family Court, Chennai.

4. It is seen from the records that the bundle in H.M.O.P.No.641 of 2017 was called for by this Court, however there is no order transferring the same. The memorandum of compromise is taken on file and the terms thereof would form part of the decree.

5. The records in H.M.O.P.No.641 of 2017 shall be returned to the file of the Sub Court, Tambaram, where Umamaheswari shall make necessary arrangements to withdraw the same. The learned Subordinate Judge, Tambaram shall on production of a copy of this Judgement dismiss the HMOP in case it is not withdrawn by Umamaheswari. Both Ramasubramanian and Umamaheswari shall jointly file an application before the Family Court at Chennai for divorce by mutual consent. The

learned Family Court Judge, Chennai shall upon receipt of the said application dispense with the mandatory 6 months period and pass orders taking into account the fact that the parties have been agitating the divorce petition in H.M.O.P.No.641 of 2017 from the year 2017. The learned Judge shall not wait for the order withdrawing / dismissing H.M.O.P.No.641 of 2017 but proceed independent of the said HMOP.

6. Considering the fact that the evidence is yet to be opened in all the three suits the Court fees paid by the plaintiff in C.S.Nos.171, 468 & 481 of 2019 as also the Court fee for the counter claim paid in C.S.No.171 of 2019 shall be refunded fully to the plaintiff and the defendant respectively as per section 69 of the Tamil Nadu Court Fees and Suit Valuation Act, 1955 as amended by the Amendment Act, 2017. The above suits are ordered in terms of the memorandum of compromise and the same shall form part of the decree. Consequently, connected applications are also closed.

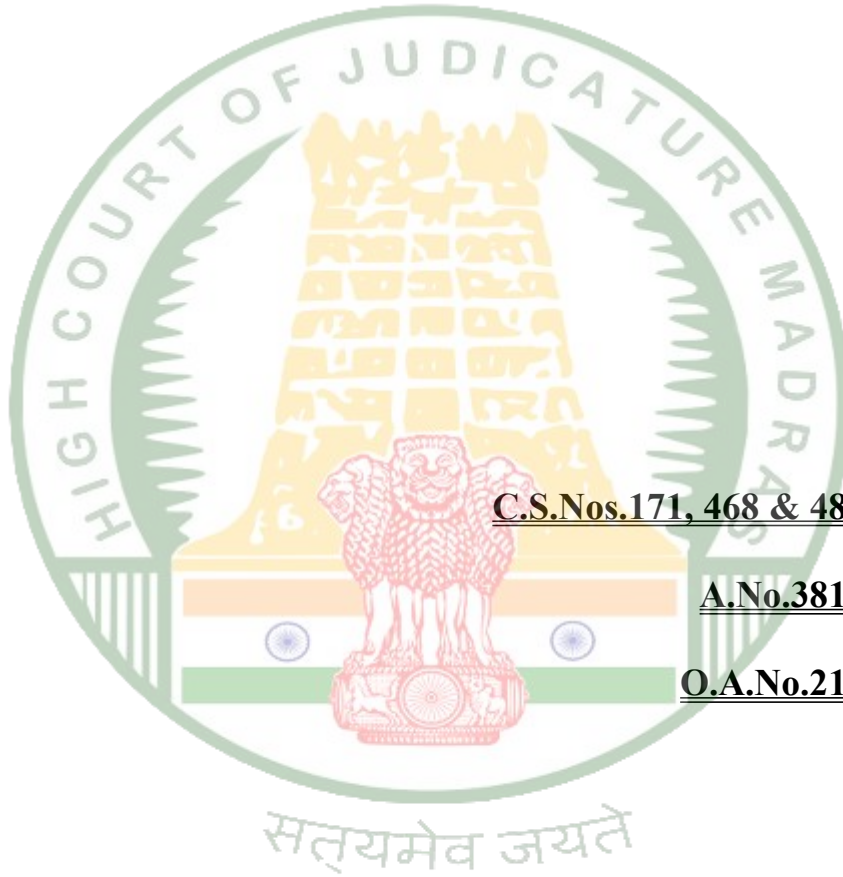
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P.T. ASHA. J.

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