

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.11.2020

CORAM

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

C.S.No.236 of 2018

1. K.Kalavathy
2. Babitha
3. K.Velmurugan
4. K.Balaganesh

...Plaintiffs

Vs.

K.Baskar

...Defendant

Prayer:- Complaint filed under IV Rule 1 O.S.Rules r/w VII Rule 1 of C.P.C.

a. to pass a preliminary decree declaring that the plaintiffs are together entitled to 4/5th undivided shares in the suit schedule mentioned properties by effecting division of the properties into five equal parts by metes and bounds and allot 1/5th share and separate possession of the suit schedule mentioned property to EACH of the Plaintiffs;

b. to grant a permanent injunction restraining the defendant or his men, agents or servants or anybody claiming

<http://www.judis.nic.in> through him from in any manner to encumber or deal with the

suit schedule properties to any third party or parties;

c. to pay the cost of the suit.

For Plaintiffs : M/s.G.Sugadev Rajaguru

For Defendant : Mr.S.Vadivel Murugan

ORDER

The suit has been filed for the following reliefs:

a. to pass a preliminary decree declaring that the plaintiffs are together entitled to 4/5th undivided shares in the suit schedule mentioned properties by effecting division of the properties into five equal parts by metes and bounds and allot 1/5th share and separate possession of the suit schedule mentioned property to EACH of the Plaintiffs;

b. to grant a permanent injunction restraining the defendant or his men, agents or servants or anybody claiming through him from in any manner to encumber or deal with the suit schedule properties to any third party or parties;

c. to pay the cost of the suit.

Tamil Nadu Mediation and Conciliation Centre, High Court, Madras. The parties have resolved their disputes and a Memorandum of Compromise dated 19.02.2019 duly signed by them and attested by their counsel, has been filed. The parties are also present through video conference.

3. Learned counsel for the plaintiffs as well as the defendant submits that the suit may be decreed in terms of memorandum of compromise dated 19.02.2019. The terms and conditions of the said memorandum of compromise read as under:

" It is humbly submitted that the above Civil Suit has been filed by the Plaintiffs herein against the Defendant for a Preliminary Decree declaring that the plaintiffs are entitled to 4/5th undivided shares in the suit schedule mentioned properties by effecting division of the properties into five equal parts by metes and bounds and allot 1/5th share and separate possession of the suit schedule mentioned property to the EACH plaintiffs; and to grant an PERMANENT INJUNCTION restraining the Defendant or his men, agents or servants or anybody claiming through him from in any manner to encumber or deal with the suit schedule properties to any third party or parties;

It is further submitted that the above Civil Suit is pending before this Hon'ble Court. The Defendant

herein has filed his detailed Written Statement. The plaintiffs have filed their Reply Statement to the Written Statement and the Defendant also filed his rejoinder statement.

Pending the above Civil Suit the suit was referred to Mediation Centre, Madras High Court, wherein pursuance to the efforts of the Mediator, the Parties herein have amicably settled their dispute among themselves by way of Compromise mentioned hereunder:

[1] [a] All that piece and parcel of the property, bearing Plot Nos.45 & 46 in the layout of sites named as "M/s.V.G.P.GOLDEN BEACH, UTHANDI, comprised in Survey No.2/2B1 (Survey No.2/2B1 Part, as per Sale Deed dated 30/04/2001, bearing Document No.1125/2001, Book-I, Vol.321, Pages 183 to 188, registered on the file of the Sub Registrar, Neelankarai, Patta No.106, Uthandi Village), situated at UTHANDI VILLAGE, formerly Saidapet Taluk, now Sholinganallur Taluk, formerly Chingleput District, then Kancheepuram District, now Chennai District, measuring an extent of 2 GROUNDS [4800 Sq.ft.] or thereabouts together with building existing thereon measuring an extent of 1000 sq.ft and the said Plots bounded on the:

NORTH BY : SURVEY No.2/2A2

SOUTH BY : 40 FEET ROAD

EAST BY :PLOT No.47-A

WEST BY :PLOT No.44

and situated within the Registration District of Chennai South and Sub Registration District of Neelankarai, is

allotted to the SHARE of the Defendant herein namely Mr.K.BASKAR;

[1] [b] All that piece and parcel of vacant House Sites, bearing Plot Nos.47-A & 47-B in the layout of sites named as "M/s.V.G.P.GOLDEN BEACH, UTHANDI, comprised in Survey No.2/2B1, (Survey No.2/2B1 Part, as per Sale Deed dated 30/04/2001, bearing document No.1125/2001, Book-I, Vol.32, Pages 183 to 188, registered on the file of the Sub Registrar, Neelangarai & Sale Deed dated 09.05.2001, bearing Document No.1232/2001, Book-I, Vol.325, Pages 1 to 7 registered on the file of the Sub Registrar, Neelangarai, Patta No.106, Uthandi Village), situated at UTHANDI VILLAGE, formerly Saidapet Taluk, now Sholinganallur Taluk, formerly Chingleput District then Kancheepuram District, now Chennai District, measuring each 1200 sq.ft and in all admeasuring 2400 sq.ft., (ONE GROUND) and the said plots bounded on the:

NORTH BY : SURVEY No.2/2A2

SOUTH BY : 40 FEET ROAD

EAST BY : PLOT No.48

WEST By : PLOT No.46

and situated within the Registration District of Chennai South and Sub Registration District of Neelankarai, is allotted to the SHARE of the SECOND PLAINTIFF namely Mrs.BABITHA.

[1] [c] All that piece and parcel of vacant House site, bearing Plot No.48 in the layout of sites named as "M/s.V.G.P.GOLDEN BEACH, UTHANDI , comprised in Survey No.2/2B1, (Survey No.2/2B1 Part, as Sale Deed dated 09/05/2001, bearing Document

No.1232/2001, Book-I, Vol.325, Pages 1 to 7 registered on the file of the Sub-Registrar, Neelangarai, Patta No.106, Uthandi Village,) situated at UTHANDI VILLAGE, formerly Saidapet Taluk, now Sholinganallur Taluk, formerly Chingleput District, then Kancheepuram District, now Chennai District, measuring an extent of 2400 Sq.ft., (ONE GROUND) and the said Plot is bounded on the:

NORTH BY : SURVEY No.2/2A2

SOUTH BY : 40 FEET ROAD

EAST BY : PLOT No.49

WEST BY : PLOT No.47-B

and situated within the Registration District of Chennai South and Sub Registration District of Neelankarai, is allotted to the SHARE of the THIRD PLAINTIFF namely Mr.K.VELMURUGAN.

[1] [d] All that piece and parcel of vacant House site, bearing Plot No.49 in the layout of sites named as "M/s.V.G.P.GOLDEN BEACH, UTHANDI , comprised in Survey No.2/2B1, (Survey No.2/2B1 Part, as Sale Deed dated 09/05/2001, bearing Document No.1232/2001, Book-I, Vol.325, Pages 1 to 7 registered on the file of the Sub-Registrar, Neelangarai, Patta No.106, Uthandi Village,) situated at UTHANDI VILLAGE, formerly Saidapet Taluk, now Sholinganallur Taluk, formerly Chingleput District, now Kancheepuram District, measuring an extent of 2400 Sq.ft., (ONE GROUND) and the said Plot is bounded on the:

NORTH BY : SURVEY No.2/2A2

SOUTH BY : 40 FEET ROAD

EAST BY : PLOT No.50

WEST BY : PLOT No.48

and situated within the Registration District of Chennai South and Sub Registration District of Neelankarai, is allotted to the SHARE of the FOURTH PLAINTIFF namely Mr.K.BALAGANESH.

It is agreed by the Plaintiffs and the Defendant that they jointly shall arrange to relocate/vacate the watch man, who is temporarily residing with his family at Plot No.49 after signing this Memorandum of Compromise.

THE PLAINTIFFS AND DEFENDANT AGREE FOR SHIFTING THE ELECTRICITY SERVICE CONNECTION FOR THE BUILDING ALLOTTED TO THE DEFENDANT, WHICH IS PRESENTLY SITAUTED IN PLOT NO.47-A, ALLOTTED TO THE 2ND PLAINTIFF (Mrs.BABITHA) AND ALSO FOR THE TRANSFER OF THE SAME IN THE NAME OF THE DEFENDANT.

[2]All that piece and parcel of Commercial Shop, bearing Shop No.19-A, Tower III, Rayala Towers, Mount Road, Chennai 600 002, measuring an extent of 293 Sq.ft... and situated within the Registration District of Chennai Central and Sub Registration District of Triplicane is allotted to the SHARE of the SECOND PLAINTIFF namely Mrs.BABITHA.

It is agreed by other PARTIES [FIRST, THIRD, FOURTH PLAINTIFFS AND THE DEFENDANT] herein that since Sale Deed not yet registered in respect of the said Commercial Shop, the other PARTIES shall co-operate with the SECOND PLAINTIFF to get

registration of the Sale Deed to and in favour of the SECOND PLAINTIFF herein. The expenses for the registration shall be borne by the SECOND PLAINTIFF herein.

[3]It is agreed by the PARTIES herein that though extent of land in Item No.1 of the Suit Schedule property namely bearing Old Door Nos.1/2 & 1-A, then Door No.2/1, New Door No.33/15, Sri.S.Anantharama Krishna Iyer's Colony, on the southern side of Eldam's Road, Teynampet, Chennai 600 018, comprised in Old R.S.No.1545/2 (Part), New R.S.No.1545/40 (FULL EXTENT), O.S.No.853/34 (Part) is mentioned as 2 Grounds or thereabouts, as per the Certificate on the Extract from the Permanent Land Register (PATTA) and as well as on measuring the physical possession of the appurtenant land, the extent of Item No.1 of the suit schedule mentioned property is 5290 Sq.ft. or thereabouts.

[3] [a] The PARTIES herein have divided the said land mentioned in Item No.1 of the suit schedule property into TWO PARTS in the following manner:

[i] Plot No.A:

Northern portion of land, comprised in R.S.No.1545/40, bearing Plot No.A, measuring 4435 Sq.ft out of 5290 Sq.ft or thereabouts, bearing Old Door Nos.1/2 & 1-A, then Door No.2/1, New Door No.33/15, Sri.S.Anantharama Krishna Iyer's Colony, on the southern side of Eldam's Road, Teynampet, Chennai 600 018, comprised in Old R.S.No.1545/2 [Part], New R.S.No.1545/40 [PART], O.S.No.853/34 (Part), situated at MYLAPORE DIVISION, Block No.30, Chennai District, Greater Chennai Corporation Zone No.09 (Old

No.8), Greater Chennai Corporation Ward No.123 (old No.115), together with building existing thereon and the land is bounded on the:

NORTH BY : R.S.No.1547

SOUTH BY : PLOT No.B (REMAINING PORTION OF R.S.NO.1545/40]

EAST BY : PLOT No.1545/41

WEST BY : New R.S.No.1545/72

(previously R.S.No.1545/2 (part)

and situated within the Registration District of Chennai Central and Sub Registration District of Joint Sub Registrar-I, Chennai Central,

[ii] Plot No.B:

Southern portion of land, comprised in R.S.No.1545/40, bearing Plot No.B, measuring 855 Sq.ft., out of 5290 Sq.ft., or thereabouts, bearing Old Door Nos.1/2 & 1-A, then Door No.2/1, New Door No.33/15, Sri S.Anantharama Krishna Iyer's Colony, on the southern side of Eldam's Road, Teynampet, CHENNAI 600 018, comprised in Old R.S.No.1545/2 [Part], New R.S.No.1545/40 [Part], O.S.No.853/34 (Part), situated at MYLAPORE DIVISION, Block No.30, Chennai District, Greater Chennai Corporation Zone No.09 (Old No.8), Greater Chennai Corporation Ward No.123 [Old No.115], together with building existing thereon and the land is Bounded on the:

North by : PLOT No.B[REMAINING PORTION OF R.S.No.1545/40]

South by : R.S.No.1545/72 [belonging to Mr.K.Baksar,

Mr.K.Velmurugan & Mr.K.Balaganesh]

East by : R.S.No.1545/41

***West by : New R.S.No.1545/72 (previously
R.S.No.1545/2 (part)***

***and situated within the Registration District of Chennai
Central and Sub Registration District of Joind Sub
Registrar - I, Chennai Central.***

***[3] [b] 1/5th UNDIVIDED SHARE and INTEREST in
the said Plot No.A namely Northern portion of land,
comprised in R.S.No.1545/40, 4435 Sq.ft., out of 5290
Sq.ft., or thereabouts, morefully described above, is
allotted to EACH of all the PARTIES herein
[Mrs.K.KALAVATHY, Mrs.BABITHA,
Mr.K.VELMURUGAN, Mr.K.BALAGANESH &
Mr.K.BASKAR] are allotted***

***[3][c] 1/3rd UNDIVIDED SHARE and INTEREST in
the said Plot No.B namely Southern portion of land,
measuring 855 Sq.ft., out of 5290 Sq.ft., or thereabouts.
comprised in R.S.No.1545/40, morefully described
above, is allotted to EACH of the Defendant
[Mr.K.BASKAR], Third Plaintiff
[Mr.K.VELMURUGAN] and Fourth Plaintiff
[Mr.K.BALAGANESH].***

***The Building in the said Plot No.A mentioned above
shall be enjoyed till demolition and reconstruction of the
building as mentioned herein with the following terms:***

***The BUILT UP AREA in the GROUND FLOOR on the
REAR SIDE RESIDENTIAL portion, shall be allotted to***

the share of the Mrs.K.KALAVATHY.

The BUILT UP AREA in the GROUND FLOOR on the FRONT SIDE COMMERCIAL portion, shall be allotted to the share of the Mrs.BABITHA. And the rent shall be collected and Utilized by Mrs.K.KALAVATHY during her life time.

The BUILT UP AREA in the ENTIRE FIRST FLOOR portion in the Building, shall be allotted to the share of the PARTY OF THE SECOND PART herein [Mr.K.BASKAR]. For making entrance in the FIRST FLOOR REAR SIDE, the PLAINTIFFS SHALL CO-OPERATE WITHOUT ANY OBJECTION.

The BUILT UP AREA in the ENTIRE SECOND FLOOR AND BUILT UP AREA IN THE THIRD FLOOR portion in the Building, shall be allotted to the share of the PARTIES OF THE FOURTH and FIFTH PART herein [Mr.K.VELMURUGAN & Mr.K.BALAGANESH].

The PARTIES herein agree that the Accounts for the PUBLIC charges and taxes [Property Tax, Water and Sewerage Charges], building maintenance shall be furnished by the PARTIES herein for the last 5 year period and the PARTIES of the SECOND, THIRD, FOURTH and FIFTH herein shall equally liable and responsible to pay the same. If any of ONE the PARTIES has paid more than his/her contribution, the others shall pay him.

The PARTIES of the SECOND, THIRD, FOURTH and FIFTH herein agree and undertake to pay ALL PUBLIC charges and taxes [Property Tax, Water and Sewerage Charges] jointly and they shall bear equally their contribution from today onwards. Later the Parties shall have their names exclusively for the portion allotted. And the expenses for maintenance of the common areas such as stair case, sewage charges, water motor pump, shall be borne by Plaintiffs 2 to 4 and the Defendant. The Maintenance shall be carried out by Plaintiffs 2 to 4 and the Defendant on yearly rotation basis.

The PARTIES herein are entitled to receive rents from their respective allotted portions.

The FIRST PLAINTIFF herein [Mrs.K.KALAVATHY] is entitled to possess, reside and enjoy the existing Ground Floor portion in the rear side residential building. The remaining PARTIES and members of their families can visit and take care of the FIRST PLAINTIFF herein [Mrs.K.KALAVATHY]. In any way, the remaining parties and other respective family members shall not disturb the FIRST PLAINTIFF herein [Mrs.K.KALAVATHY].

The PARTIES agree that the building over the said land is very old and therefore the building has to be demolished and reconstructed. In case of demolition and reconstruction, the PARTIES shall bear expenses, for the demolition and reconstruction equally and the BUILT UP area to be constructed shall be

shared/divided by the PARTIES herein equally. Till that time, the parties shall take the possession of the portions and enjoy the same as their own and get all profits, rents and all other benefits.

AND WHEREAS the ALL PARTIES HEREIN have accepted the said partition as fair, final, conclusive and binding on them.

[6] The Bus Permit, along with spare permits bearing No.PSC No.79/VLR/2014, Bus No. TN23BA5995 for Route Chennai to Vellore is allotted to share of the Defendant herein [Mr.K.BASKAR]. The other parties/Plaintiffs shall co-operate to make transfer of name to the Defendant herein [Mr.K.BASKAR]. The expenses for the Transfer of Name shall be borne by the Defendant herein [Mr.K.BASKAR].

[7] The Bus Permit, bearing No....., Bus No. TN23BA5665..... for Route Vellore to Chennai is allotted to share of the Third Plaintiff [Mr.K.VELMURUGAN] and the Fourth Plaintiff [Mr.K.BALAGANESH]. The other parties Plaintiffs 1 and 2 Defendant shall co-operate to make transfer of names to the Third Plaintiff [Mr.K.VELMURUGAN] and the Fourth Plaintiff [Mr.K.BALAGANESH]. The expenses for the Transfer of Name shall be borne by the Third Plaintiff [Mr.K.VELMURUGAN] and the Fourth Plaintiff [Mr.K.BALAGANESH].

[8] That in consideration of the right title and interest made in accordance with the aforesaid terms of this Memorandum of Compromise and in accordance with

the conditions mentioned in this Memorandum, the Parties herein release and relinquish their interest in the properties allotted to other parties and each of the said parties hereby convey to each other party separately their right, title and interest therein so as to constitute each party to this deed the sole and absolute owner of the property(ies) allotted to that party free and discharged from all claims demands of other thereto or concerning therewith, as from the date of this Memorandum of Compromise.

[9] That the parties have agreed that all taxes and public charges in respect of the allotted properties shall be borne respectively by the parties themselves.

[10] That each party will execute such deed, letter, agreement, memorandum, certificate, affidavit or do all other acts, deeds and things necessary which may be requisite for more effectually assuring the party so requiring and at their cost, in the manner required by law and appear before revenue or other authorities to have mutation effected in respect of the party assigned to the party concerned.

[11] That all the expenses for the registration and other incidental expenses for registration of this Memorandum of Compromise, if necessary shall be equally borne by the PARTIES herein.

[12] Each parties hereto further covenants with the other that the latter will hereafter hold and stand possessed of the property allotted to them quietly and

peacefully and enjoy the rents and profits thereof without any suit, interruption, claim or any demand by the covenanting parties, their heirs, executors, administrators and assigns or any person claiming under them.

[13] That the Original Title Deeds and other document pertaining to the above property at Eldams Road shall be in the custody of the First Plaintiff herein till her life time. After the life time of the First Plaintiff herein, the custody of the Original Title Deeds and other document pertaining to the above property at Eldams Road shall be with the Fourth Plaintiff herein [Mr.K.BALAGANESH].

[14] That the Original Deed of Sale dated 30/04/2001 registered as Document No.1125 of 2001 in Book I, Volume 321, Pages 183 to 188 in the office of the Sub Registrar, Neelankarai and other records pertaining to the House sites, bearing No.45, 46, & 47-A, at UTHANDI VILLAGE shall be the custody of the Defendant herein:

[15] That Deed of Sale dated 09/05/2001 registered as Document No.1232 of 2001 in Book I, Volume 325, Pages 1 to 4 in the office of the Sub Registrar, Neelankarai; and other records pertaining to the House sites, bearing No.47-B, 48 & 49, at UTHANDI VILLAGE shall be the custody of the Third Plaintiff herein:

[16] It is agreed between the PARTIES herein and the PARTY having custody of the ORIGINALS agrees and

undertakes to produce the same to other PARTIES or their nominee[s] on request previously made.

[17] The PARTIES herein agree that properties purchased/belonging and in the names of their individual names, shall be treated as their own and absolute property(ies). The other PARTIES and their respective legal heirs are not having right or title over the same.

[18] The Defendant herein agrees and undertakes to cooperate to QUASH the FIR filed/pending against the Plaintiffs 3 & 4 herein on the base of Complaint lodged by him [the Defendant herein] with the Inspector of Police, Teynampet Police Station. The Defendant agrees and undertakes to give any letter/affidavit/no objection to the Inspector of Police, Teynampet or any Court of Law to withdraw/quash the said FIR filed and pending against the Plaintiffs 3 & 4 herein. The consent for quashing the FIR is given on the agreement that plaintiffs 3 & 4 and the defendant will jointly install the lift at VKM Illam 33/15 ARK Colony Eldams Road all "the three will bear the cost & maintenance" equally.

ALL PARTIES herein have accepted the said COMPROMISE as fair, final, conclusive and binding on them.

[19] The PARTIES herein pray this Hon'ble Court to pass a FINAL DECREE and JUDGMENT on the basis of the above said COMPROMISE arrived between them.

In the said circumstances, it is humbly prayed that this Hon'ble Court may be pleased to RECORD the above said COMPROMISE and pass a FINAL DECREE and JUDGMENT on the basis of the above said COMPROMISE and thus render justice”.

4. Accordingly, the suit stands decreed in terms of memorandum of compromise and the memorandum of compromise 19.02.2019 shall form part of the decree. Consequently connected original application is also closed.

Index:Yes/No
dpq

24.11.2020

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N. SATHISH KUMAR, J.

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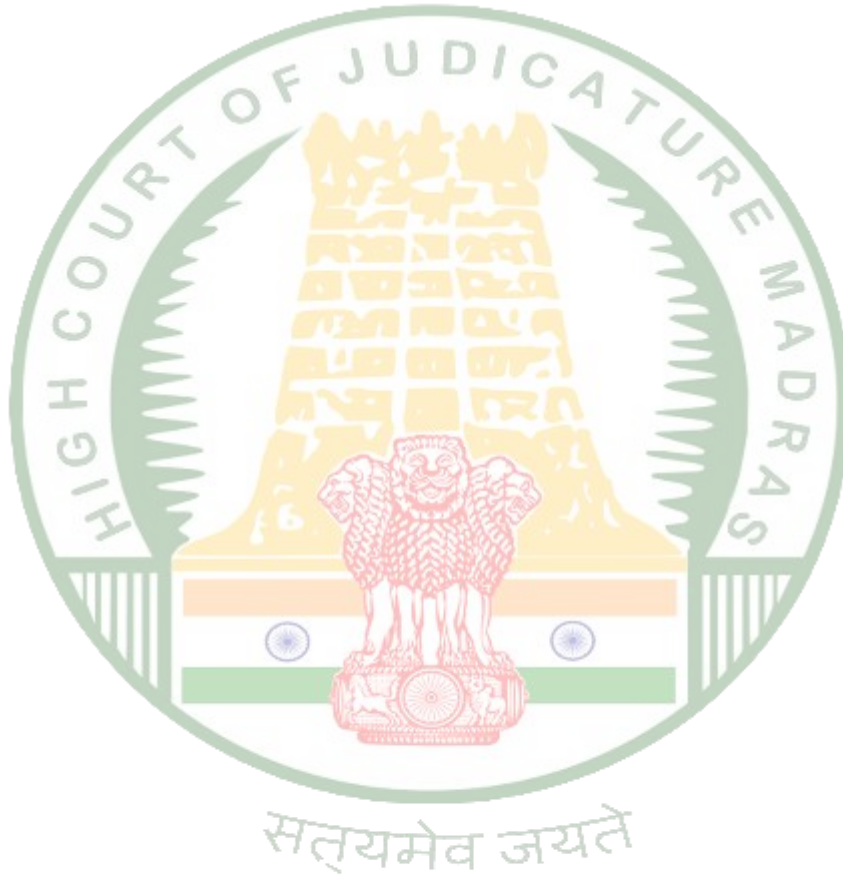
To

The Sub Assistant Registrar,
Original Side,
High Court, Madras.



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24.11.2020



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