

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.610 of 2017

1. Rathileela Samuel
D/o late J.K.Samuel
2. Nirmala Samuel
W/o late J.K.Samuel

..Appellants

-vs-

1. E.Dinesh Kumar
2. G.K.Bharathi
(R2 impleaded as party vide order of
Court dt. 26.4.2017 in CMA No.610/17)

..Respondents

Memorandum of Grounds of Civil Miscellaneous Appeal filed under Order XLIII, Rule 1(q) of the Code of Civil Procedure, against the order and decree passed in I.A.No.1224 of 2016 in O.S.No.18 of 2016 dated 19.01.2017 on the file of the III Additional District & Sessions Court, Gobichettipalayam.

For Appellants :: Mr.P.V.Balasubramaniam
for M/s BFS Legal for 1st Appellant
Mr.M.Aravind Subramaniam
for 2nd Appellant

For Respondents :: Mr.J.Ramakrishnan for R1
Mr.N.S.Sivakumar for R2

JUDGMENT

Heard learned counsel for the parties through video conferencing due to the Covid-19 pandemic.

2. This civil miscellaneous appeal has been directed against the impugned decretal order passed in I.A.No.1224 of 2016 in O.S.No.18 of 2016 dated 19.1.2017 by the trial Court, wherein the trial Court passed an interim order of attachment of item no.1 of the application mentioned property consisting of two parts. The first appellant is the first defendant before the trial Court. The suit has been filed for recovery of a sum of

Rs.32,71,000/- along with interest at the rate of 12% per annum with costs. Aggrieved by the interim order of attachment dated 19.1.2017 passed by the trial Court, the defendants 1 & 2 have filed this appeal. While entertaining the appeal, this Court, by order dated 26.4.2017, in C.M.P.No.3539 of 2017 has suspended the order of attachment passed by the trial Court.

3. When the matter was taken up, Mr.P.V.Balasubramanian, learned counsel appearing for the first appellant/first defendant and Mr.J.Ramakrishnan, learned counsel appearing for the first respondent/plaintiff jointly stated that the first appellant and the first respondent have compromised the issue and the compromise agreement dated 20.7.2020 has also been filed. As per the terms and conditions of compromise, the first appellant/first defendant has agreed to pay the first respondent/plaintiff in full and final settlement of all claims by the plaintiff as against the defendants in O.S.No.18 of 2016 pending on the file of the learned III Additional District & Sessions Court, Gobichettipalayam before the Lok Adalat.

4. The compromise agreement dated 20.7.2020 filed before this Court signed by the first appellant/first defendant and the first respondent/plaintiff along with the signatures of their counsel reads as follows:-

"Whereas after elaborate discussions, the Plaintiff and the 1st Defendant have agreed to enter into this compromise agreement as per the following terms and conditions:

1. The 1st Defendant agrees to pay the Plaintiff in full and final settlement of all claims by the plaintiff as against the defendants in O.S.No.18 of 2016, pending on the file of the III Additional District and Sessions Court, Gobichettipalayam, before the Lok Adalat.
2. The Plaintiff agrees that upon such payment, the Plaintiff has no further claims of any nature whatsoever as against the 1st Defendant.
3. The Plaintiff agrees that the order of attachment passed in I.A.No.1224/2016 may be set aside and the attachment raised by the Hon'ble High Court, Madras in C.M.A.No.610/2017.
4. The Plaintiff agrees that the upon execution of this agreement, he shall forthwith unconditionally withdraw the Suit O.S.No.18 of 2016 pending on the file of the III Additional District and Sessions Court, Gobichettipalayam. Such

- withdrawal can be recorded before the Lok Adalat to enable the Plaintiff to get the benefit of refund of Court fee.
5. The Plaintiff agrees for this Compromise Agreement to form part of the order in C.M.A.No.610 of 2017, pending on the file of the Hon'ble High Court, Madras.
 6. The parties agree that C.M.A.No.610 of 2017 can be ordered on the basis of this Compromise Agreement, subject to the attachment being raised.
 7. The Plaintiff prays that the Hon'ble Additional District & Sessions Court, Gobichettipalayam shall order refund of the entire Court fees upon withdrawal of the suit in O.S.No.18/2016."

5. In the light of the above, the order of attachment granted by the trial Court in I.A.No.1224 of 2016 in O.S.No.18 of 2016 dated 19.1.2017 stands set aside and the civil miscellaneous appeal shall stand allowed on the basis of the above terms of the compromise agreement, which shall form part of the order. Consequently, C.M.P.No.3539 of 2017 is closed. No costs.

Here enter compromise Agreement dated 20/07/2020.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ss

To

1. The III Additional District & Sessions Judge,
Gobichettipalayam

+1cc to Mr.N.S.Sivakumar, Advocate, S.R.No.27955
+1cc to Mr.J.Ramakrishnan, Advocate, S.R.No.27956
+1cc to Mr.BFs Legal, Advocate, S.R.No.27947

Copy to

The Section Officer,
VR Section,
High Court, Madras-104

C.M.A.No.610 of 2017

SV(CO)
KKV/15/09/2020