

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2020

CORAM :

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE R. SURESH KUMAR

O.S.A.No.423 of 2018 &
C.M.P.No.19127 of 2018

M. Selvaganapathy ... Appellant/Respondent

-vs-

E. Jeevanandam ... Respondent/Plaintiff

Original Side Appeal filed under under Order XXXVI, Rule 1 of O.S.Rules, read with Clause 15 of Letters Patent, against the common judgment and decree passed by this Court, dated 18.4.2017 made in C.S.No.812 of 2003.

For Appellant : Mr.R. Thiyagarajan

For Respondents : Mr.M. Chidambaram

JUDGMENT

[Order of the Court was made by R. SURESH KUMAR, J.]

This intra-court appeal has been filed against the decree and judgment made by the original side of this Court in C.S.No.812 of 2003, by decree dated 18.4.2017, whereby, the learned Single Judge has passed the impugned decree against the defendant, who is the appellant herein.

2. Today, when the appeal is taken up for hearing, Mr. R. Thiyagarajan, learned counsel appearing for the appellant/Judgment Debtor and Mr.M. Chidambaram, learned counsel appearing for the respondent/Decree Holder made a joint request before this Court stating that, between the parties, there had been a settlement, pursuant to which, the terms of settlement had been reduced in writing, by way of Joint Memo of Compromise, dated 9.3.2020, wherein, both the appellant as well as the respondent and their respective counsel have signed.

3. Learned counsels appearing for both sides further submit that in terms of the said Joint Compromise Memo, the Appeal can be disposed of.

4. We have considered the said submissions made by both sides and have perused the Joint Memo of Compromise dated 9.3.2020. For the sake of convenience, the entirety of the Memo dated 9.3.2020 is hereby extracted, which read as follows;

' The Appellant and the Respondent begs to state as follows:-

1. The Appellant has suffered a money Decree in C.S.No.812 of 2003, dated 18.4.2017 for a sum of Rs.86,17,147.15/- (Rupees Eighty Six Lakhs Seventeen Thousand One Hundred and Forty Seven only) with interest at 6% per annum on sum of Rs.41,08,000/- (Rupees Forty One lakhs eight thousand only) with cost and has preferred an appeal in O.S.A.No.423 of 2018 before this Hon'ble Court challenging the correctness and the legality of the Decree.
2. As suggested by this Hon'ble Court, the Appellant and the Respondent have agreed that the Appellant shall pay a sum of Rs.56,00,000/- (Rupees fifty six lakhs only) as full and final settlement of the claim of the Respondent/Decree Holder and the said payment shall be made in following manner:

1. A sum of Rs.16,00,000/- (Rupees sixteen lakhs only) shall be paid in the 1st installment on 01.04.2020.
2. A sum of Rs.20,00,000 (Rupees Twenty Lakhs only) shall be paid as 2nd installment on 01.06.2020.
3. The remaining amount shall be paid as final settlement on 01.08.2020 at any event latest by on or before 15.08.2020.
4. In the event of default in payment of the said installments the defaulted installment or shall carry interest at 12% per annum till realisation viz., Rs.56,00,000/- minus payment, made balance shall carry interest.
5. Both parties to the suit shall bear the respective costs.'

5. Both the appellant as well as the respondent appeared before this Court in person and they also agreed that they have entered into this Compromise and what has been reduced by way of Joint Memo of Compromise dated 9.3.2020, have agreed upon and therefore, in terms of the Joint Compromise Memo, this appeal can be disposed.

6. Learned respective counsel appearing for the parties had identified the identity of the parties and they also, since signed in the said Compromise Memo, wanted the disposal of this appeal in terms of the said Joint Compromise Memo.

7. In view of the above, we dispose this Original Side Appeal strictly in terms of the said Joint Compromise Memo dated 9.3.2020. Learned counsel appearing for both sides also made an endorsement to that effect in the original case bundle, that also is taken on record.

8. In view of the said compromise memo, the terms of Joint Memo of Compromise shall form part of this decree and accordingly, there shall be a decree and judgment in this appeal. Accordingly, this appeal is disposed of in terms of Joint Memo of Compromise. No costs. Consequently, the connected CMP.No.19127 of 2018 is closed.

*Copy of the Joint Memo enclosed

Sd/-
Assistant Registrar(CS-I)

//True copy//

Sub Assistant Registrar

msr

To

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

+1cc to Mr.R. Thiyagarajan, Advocate SR.No.21379

+2cc to Mr.M. Chidambaram, Advocate SR.No.10288, 20529

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C.M.P.No.19127 of 2018

SSI(CO)
GMY(29/04/2021)