



WEB COPY

S.A(MD)No.307 of 2011

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.08.2020

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

S.A(MD)No.307 of 2011

and

M.P(MD)Nos.1 and 2 of 2011

1.K.Ibrahm Khan ... 1st Appellant / 6th Defendant
2.Mohammed Tajudeen ... 2nd Appellant

Vs.

1.M.Pitchai Servai (died) ... 1st Respondent / Plaintiff
2.Mariammal (died)
3.P.Sathyamoorthy
4.C.Gomathi
5.Minor Sangiah
6.Minor Deepa

[Minor respondents 5 and 6 are represented
by their natural guardian and father, 3rd
respondent]

[Respondents 2 to 6 are impleaded as legal
heirs of the deceased 1st respondent, vide
order, dated 13.08.2020, made in M.P(MD)
Nos.1 to 3 of 2014]

7.R.Umamaheswari
[7th respondent is impleaded vide order
dated 13.08.2020 made in M.P(MD)No.
1 of 2015] ... Respondents 2 to 7

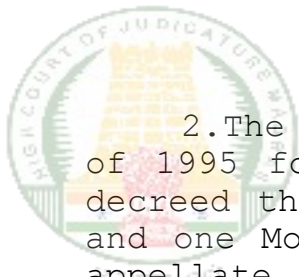
PRAYER: Second Appeal filed under Section 100 of C.P.C., against
the judgment and decree, dated 27.11.2009, passed in A.S.No.96 of
2009 by the Third Additional Sub Court, Madurai confirming the
judgment and decree, dated 26.09.2008, passed in O.S.No.1084 of 1995
by the Additional District Munsif Court, Madurai Town.

For Appellants : Mr.S.Sundarapandian

For Respondents 3 to 7 : Mr.M.Saravanan
for Mr.R.Subramanian

JUDGMENT

The concurrent Judgments and decrees passed in O.S.No.1084 of
1995 by the Additional District Munsif Court, Madurai Town and in
A.S.No.96 of 2009 by the Additional Sub Court, Madurai are being
challenged in the present second appeal. +



2.The 1st respondent / plaintiff filed the suit in O.S.No.1084 of 1995 for the relief of permanent injunction. The Trial Court decreed the suit. Against which, the 1st appellant / 6th defendant and one Mohammed Tajudeen filed A.S.No.96 of 2009 before the first appellate Court and the same was also dismissed. Against the concurrent Judgments and decrees passed by the Courts below, the 1st appellant / 6th defendant and one Mohammed Tajudeen have filed this second appeal.

3.Pending second appeal, the learned counsel for the appellants filed a memo, dated 11.10.2014, stating that the 2nd respondent was reported to be dead and the respondents 3 to 6 are her legal heirs. The said memo is recorded.

4.Today, when the matter came up for hearing, the learned counsel for the appellants as well as respondents 3 to 7 would submit that pending second appeal, the 7th respondent purchased the suit property from the 1st respondent and subsequently, the 1st respondent died on 02.07.2013. The 2nd appellant filed another suit in O.S.No.335 of 2015 on the file of the Principal District Munsif Court, Madurai Town against the 7th respondent and her husband Ramesh and the same is pending. Since the suit property was purchased by the 7th respondent, the respondents 3 to 6 are not necessary parties to the present *lis* and on the advice of common friends, the appellants and the 7th respondent settled the matter and filed a compromise memo, dated 07.01.2016. The terms of compromise are extracted below:

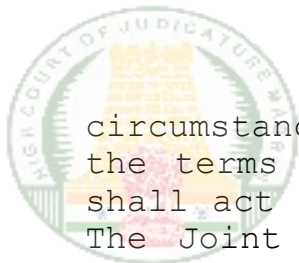
"1.The appellants admit the right, title and possession of 7th respondent in respect of the suit property.

2.The appellants agreed to pass a decree confirming the decree passed in O.S.No.1084 of 1995 on the file of 1st Additional District Munsif's Court, Madurai, as confirmed in A.S.No.96/2009 on the file of the 3rd Additional Sub Court, Madurai.

3.The 2nd appellant agreed to withdraw the suit in O.S.No.335/2015 on the file of Principal District Munsif's Court, Madurai Town.

4.The appellants received a Bankers Cheque Rs.6,00,000/- bearing No.270428 dated 04.01.2016 drawn on State Bank of India, Bye-pass Road, Madurai branch from the 7th respondent as consideration for entering into the above compromise".

5.Both the learned counsel would submit that both the appellant and the 7th respondent have settled their disputes in accordance with the terms mentioned in the Joint Memo of Compromise. In the Joint Memo of Compromise, both the parties along with their counsel have signed, accepting the terms of compromise. Under the said



circumstances, this Second Appeal is disposed of in accordance with the terms mentioned in the Joint Memo of Compromise. The parties shall act as per the Joint Memo of Compromise entered between them. The Joint Memo of Compromise shall form part of the decree. No costs. Consequently, connected Miscellaneous Petitions are closed.

WEB COPY

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Encl: Xerox copy of Joint Compromise Memo

smn

To

1.The Third Additional Sub Judge,
Madurai.

2.The Additional District Munsif,
Madurai Town.

3.The Record Keeper, (2 COPIES)
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.R. SUBRAMANIAN, Advocate (SR-14044[F] dated
13/08/2020)

**JUDGMENT MADE IN
S.A(MD)No.307 of 2011
13.08.2020**

VB (14.10.2020) 3P 6C