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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2021

C O R A M

THE HON'BLE MR. JUSTICE KRISHNAN RAMASAMY

A.S.Nos.783 & 1017 of 2001
and C.M.P.Nos.5955, 5982 & 5986 of 2019

A.S.No.783 of 2001
N.Annakkili

... Appellant/Plaintiff

Vs

1. Dakshinamurthy
2. Durai
3. Vasuki (Died)
4. Arivazhi
5. Valluvan
6. Banu
7. Karthikeyan
8. Kavitha
9. S. Tamilselvi
10. S. Sathish Kumar

.. Respondents/Defendants

(R9 & R10 are brought on record
as L/R's of the deceased R3 vide
order of this Court dated 20.12.2007
made in C.M.P.Nos. 14 to 16/2007)

(R7 & R8 declared as major vide order
of Court dated 20.12.2007 made in
C.M.P.No.39/2007 and their guardian
Banu revoked from guardianship
vide order of Court dated 20.12.2007
made in C.M.P.No.39 of 2007)

Prayer : First Appeal filed under Section 96 of Civil Procedure
Code against the Decree and Judgment dated 24.07.1997 made in
O.S.No.3907/89 on the file of the VI Additional Judge/City Civil
Court, Chennai.

For Appellant ..Mr.M.V.Venkataseshan

For Respondents ..Mr.R.Prabakar
(R2,R6, R7 to 10)
No appearance (R4 & R5)



A.S.No.1017 of 2001

Annakili

... Appellant/Defendant

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Vs

1.Dakshinamurthy
2.Durai
3.Vasuki (Died)
4.M.Banu
5.Karthikeyan
6.Kavitha
7.S.Tamilselvi
8.S.Sathish Kumar

..Respondents/Plaintiffs

(R7 & R8 are brought on record
as L/R's of the deceased R3 vide
order of this Court dated 20.12.2007
made in C.M.P.Nos. 11 to 13/2007)

(R5 & R6 declared as major and their guardian
Banu revoked from guardianship
vide order of Court dated 20.12.2007
made in C.M.P.No.40 of 2007)

Prayer : First Appeal filed under Section 96 of Civil Procedure
Code against the Decree and Judgment dated 24.07.1997 made in
O.S.No.7373/88 on the file of the VI Additional Judge/City Civil
Court, Chennai.

For Appellant .. Mr.M.V.Venkataseshan

For Respondents .. Mr.R.Prabakar
(R2,R4 to 8)

C O M M O N J U D G M E N T

When these matters are taken up for hearing,
Mr.R.Prabhakar the learned counsel appearing for the respondents
2,6 to 10 in A.S.No.783 of 2001 filed a Memo dated 02.07.2015
stating that the first respondent namely Dakshinamurthy passed
away on 19.11.2008 leaving behind his legal heirs viz., 1.Durai,
2. Banu, 3. Mani, 4. M.Karthikeyan, 4. Kavitha, 5.S.Tamilselvi
and S.Sathikumar, who are already on record as Respondents 2,6 to
10 in the above appeal. The said Memo is recorded.



2. Further, Mr.R.Prabhakar the learned counsel appearing for the respondents 2, 6 to 8 in A.S.No.1017 of 2001 filed a Memo dated 02.07.2015 stating that the first respondent namely Dakshinamurthy passed away on 19.11.2008 leaving behind his legal heirs viz., 1.Durai, 2. Banu, 3. Mani, 4. M.Karthikeyan, 4. Kavitha, 5.S.Tamilselvi, and S.Sathikumar, who are already on record as Respondents 2,6 to 8 in the above appeal. The said Memo is recorded.

3. The learned counsel appearing on either side submitted that the matter has been settled between the parties and a Memo of compromise dated 09.04.2021 has been filed to that effect, which reads as under:

"1.The appellant filed O.S.No.3907 of 1998 on the file of 6th Additional City Civil Court for partition. But appellant was in possession of that portion so the respondents filed O.S.No.7373 of 1988 for recovery of possession of the very same property. Both suits were tried together. The suit filed by the appellant was dismissed and the suit filed by the respondent was decreed. So the appellant filed A.S.No.783 of 2001 and A.S.No.1017 of 2001 on the file of this Court.

2.Pending appeal the matter was referred to mediation. In the mediation the appellant accepted to pay Rs.1,50,00,000/- (Rupees One Crore Fifty Lakhs only) to the respondents as per their demand and the respondents further accepts the title of the appellant/defendant in O.S.No.7373 of 1988 and accepts the exclusive the possession of the appellant.

3. Accordingly a sum of Rs.1,15,00,000/- (Rupees One Crore Fifteen Lakhs only) has already been paid by the appellant, when the matter was listed before his Lordship Mr.Justice S.Sunder. At that time appellant offered to pay balance sum of Rs.35,00,000/- (Rupees Thirty Five Lakhs only) towards balance sum on or before 30.04.2021. To prove his bonafide the



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appellant paid a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) by way of two Demand Drafts on 17.12.2020. Now the appellant is paying final sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs only) By way of two DD's Bearing No.949182 dated 01.02.2021 for Rs.2,50,000/- and another D.D. bearing No.949047 dated 12.01.2021 for Rs.22,50,000/- (Rupees Twenty Two Lakhs Fifty Thousand Only) drawn on State Bank of India, Ashok Nagar Branch.

4.The respondent accepts that appellant has paid entire sale consideration as demanded by them. Hence the respondents has no objection for allowing both the appeals and setting aside the decrees of the trial Court. The respondents further undertakes to close the E.P. pending before the executing Court. The respondents further submit that they have no objection for receiving the original title document marked as Ex.A1 to A5 by the appellant before this Court.

Therefore, it is prayed that this Hon'ble Court may be pleased to record this Memo and pass the decree in favour of the appellant and thus render justice."

Recording the said Memo of Compromise dated 09.04.2021 these appeals are decreed in terms of Joint Memo of Compromise. The Joint Memo of Compromise shall form part of the decree. No costs.

Sd/-

Assistant Registrar(I)

// True Copy //

Sub Assistant Registrar

arr



To

The VI Additional City Civil Court,
Chennai.

+2cc to Mr.N.Manoharan, Advocate SR.No.23747, 23748

+6cc to Mr.M.V.Venkataseshan, Advocate SR.No.24213, 24214

A.S.Nos.783 & 1017 of 2001

PPA(CO)

CB(12/01/2022)

CB(31/01/2022)