



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 17.02.2021

Pronounced on : 03.03.2021

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Coram:

THE HON'BLE DR. JUSTICE G.JAYACHANDRAN

A.S.No.814 of 2010

1. K.Kandasamy,
2. K.P.Kolandasamy,

...Appellants/Plaintiffs

/versus/

1. K.P.Muthusamy,
2. M.Saravanan,
3. Geetha Vetrivelan,

...Respondents/Defendants

Prayer: First Appeal is filed under Section 96 of the Code of Civil Procedure against the judgment and decree of the Learned First Additional District Judge, Erode, dated 15.10.2008 passed in O.S.No.314 of 2008.

For Appellants : Mr.S.Sathish Kumar,
for Mr.Satish Parasaran

For R1 to R3 : Mr.Kumaraguru

J U D G M E N T

This Appeal is directed against the judgment of the Trial Court, dismissed the suit filed for specific performance.

2. The Appellants are the plaintiff in the suit. The brief facts of the case is that on 25.11.2006, the plaintiffs and the defendants entered into an unregistered agreement for the sale of suit property. The defendants agreed to sale 2.56 acres of land, reserving 14 cents in their personal use. At the time of agreement it was stated by the defendants that it is an ancestral property devolved upon them under registered will dated 31.10.1979 and the registered partition deed dated 09.09.1996. The sale price was fixed as Rs.40,00,000/- and the plaintiff paid a sum of Rs.10,00,000/- as advance on the date of agreement and parties agreed for the payment of balance in three instalments are as below:-



12. The Leaned Counsels using their goods office have successfully prevailed about the disputing parties and had arrived at settlement, which reads as below:-

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Joint Compromise Memo by Appellants & Respondents.

The parties herein most respectfully submit as follow:-

1. The appellants herein filed the above appeal being aggrieved by the judgment dated 15.10.2008 passed in O.S.No.314 of 2007 by the learned Additional District Judge, Erode, directing the respondents to pay a sum of Rs.10 lakhs with interest towards repayment of the sale advance paid by these appellants towards purchased of suit property.

2. During the pendency of the above appeal, both parties have agreed to settle matter amicably between them, as per the suggestion given by this Hon'ble Court. Accordingly, this Memo of Compromise is entered between both parties as per the following terms:-

a). The appellants/plaintiff have received the refund of sale advance of Rs.10,00,000/- (Rupees Ten Lakhs only) by cash as full and final settlement as against all claims and the appellants hereby acknowledge the receipt of the same and appellants shall not claim any interest for the refund of sale advance given by the respondents.

b). The respondents shall have the absolute right over the subject property and to use it at their will and the appellants shall have no rights in any manner over the subject property in future as the sale agreement dated 13.05.2007 is hereby cancelled by both parties. The parties have agreed that neither party shall have any claim in future whatsoever against the other in connection with the suit mentioned property.



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c). The sale agreement dated 13.05.2007 duly entered between these parties is hereby cancelled which is the subject matter of this case upon disposal of the present first appeal.

d). The appellants pray for refund of Court fee paid by them before this Hon'ble Court towards filing the present first appeal and the present respondents have no objection for such refund of Court fee by the appellants.

e). The parties herein agree that they shall jointly file the present Memo of Compromise before this Hon'ble Court, Madras in the pending proceeding in A.S.No.814 of 2010 and shall pray this Hon'ble Court, to dispose the above appeal on the basis of the present compromise with a plea seeking refund of Court of Fee paid by the appellants.

3. In these circumstances, the parties herein most respectfully pray that this Hon'ble Court may be pleased to record the above compromise between the parties and dispose the present first appeal A.S.No.814 of 2010 on the basis of the said compromise and direct the Registry of this Hon'ble Court to refund the full Court Fees by these appellants in the present first Appeal A.S.No.814 of 2010 to the present appellants.

13. In terms of the above settlement, the parties have entered into a compromise memo and duly signed. Both the Appellants as well as respondents present before this Court and reported that they have amicably settled the dispute in the terms of the settlement as stated above.

14. In view of the settlement arrived between the parties, the Appeal Suit is disposed of as settled out of Court. Insofar as Court fees is concerned, this Court is of the view that the judgment passed by the Hon'ble Supreme Court in The High Court of Judicature of Madras, Rep. by its Registrar General -vs- M.C.Subramaniam and others reported in 2021 SCC Online SC 109, has held that, it is fit case where the appellants should be refunded the Court fees paid by them in this Appeal.



15. In view of the above compromise memo, the Appeal Suit is disposed of as settled out of Court. Registry is directed to refund the entire Court fees paid by them to the appellants. The compromise memo shall form part of the decree. No costs.

(*) Herein enclosed the xerox copy of the Joint Memo compromise.

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

bsm

To,

1. The First Additional District Judge,
Erode.
2. The Section Officer,
V.R.Section,
High Court, Madras.
3. The Section Officer,
ER Section,
High Court, Madras - 104.

(On appropriate application by the respective parties, the return of original documents shall be entertained, as per law.)

+1cc to Mr.R.Parthasarathy, Advocate, S.R.No.13086

A.S.No.814 of 2010

SR[co]
NSK 19/11/2021