

S.A.Nos.1245 to 1248 of 2010

P.T. ASHA, J,

In the above matter, a Common Judgment was passed on the basis of the Memorandum of Compromise dated 28.07.2021 filed on the said date. Thereafter, it was noticed that there was certain discrepancies in the Memorandum of Compromise and therefore, the matter was posted on 28.10.2021 under the caption “For being mentioned”.

2.The learned counsel who had appeared for the parties was informed about the said discrepancies and they were asked to file a Memorandum of Compromise correcting the above discrepancies. The said corrected version has also been filed today i.e., on 28.10.2021 and the same is taken on file.

3.However, in order to appreciate the reason as to why the rectified Memorandum of Compromise has been sought for, it is necessary to briefly set out the facts of the case.

4.The Second Appeals arise from out of the proceedings in O.S.No.4623 of 2001 on the file of the learned XI Assistant Judge, City Civil Court, Chennai.

5.The dispute in the above suit revolves around the 20 feet road which is shown as a road in which the defendants 6 to 8 also had an access. The appellant's case is that the road was a part of her property and not a road.

6.The learned XI Assistant Judge, City Civil Court, Chennai by his Judgment and Decree dated 28.08.2009 held that there was no road in the suit property and consequently, decreed the suit.

7.This Judgment and Decree was challenged independently by the defendants. The appeal A.S.No.417 of 2009 was filed by the defendants 6 and 7, A.S.No.428 of 2009 was filed by the 8th defendant, A.S.No.449 of 2009 was filed by the defendants 1 to 4 and A.S.No.47 of 2009 was filed by the 5th defendant. By a Common Judgment and

Decree dated 17.08.2010, the learned III Additional Judge, City Civil Court, Chennai before whom the appeals were filed, allowed all the appeals and set aside the Judgment and Decree of the learned XI Assistant Judge, City Civil Court, Chennai in O.S.No.4623 of 2001. Challenging the above, the Second Appeals have been filed by the appellant.

8.After filing of the appeals, the 6th defendant R.Sankaranarayanan and the 7th defendant R. Kumar had passed away, however, prior to the death, they have conveyed their properties to the 9th respondent herein under a Sale Deed dated 11.07.1980 registered as Doc.Nos.2738/80 and 2739/1980 on the file of SRO, Sembium and a Sale Deed dated 01.07.2010 registered as Doc.Nos.5287/2010, 5288/2010, 5289/2010, 5290/2010 and 5291/2010 on the file of SRO, Sembium. Therefore, there is no necessity to bring the legal representatives on record since the interest of the defendants 6 and 7 has been purchased by the 9th respondent herein. Therefore, the 9th respondent had stepped into the shoes of the defendants 6 and 7. The

9th respondent has also been brought on record as a party respondent in all the above Second Appeals.

9.It is brought to the notice of this Court that by way of a Joint Memorandum of Compromise filed on 28.07.2021 the parties have settled their disputes and a sketch has been appended to the said Compromise Memo in and by which the appellant accepted the existence of the road in T.S.No.124 which is coloured in brown in the sketch and known as Subramaniyapuram 2nd Street. From a reading of the Joint Memorandum of Compromise, there appears to be proceedings pending between the defendants 6 and 7 and the 9th respondent with one Valliammal, wife of Late Swaminathan in O.S.No.8015 of 2000 and O.S.No.3481 of 2003 pending on the file of the learned XVIII Assistant Judge, City Civil Court Chennai. The said Valliammal is not a party to this Appeal.

10.A Criminal case has been initiated by the appellant J.Jansi Rani in C.C.No.103 of 2007 before the learned Chief Metropolitan

Magistrate (Exclusive trial for CCB Cases), Egmore, Chennai. The Memorandum of Compromise filed on 28.07.2021 had however stated that the Compromise was entered into between the Power Agent of the respondents 6 and 7. The 8th respondent after the death of his Principals cannot sign the compromise.

11.The corrected version of the Memorandum of Compromise has also been filed today i.e., on 28.10.2021 and the same is taken on file and titled by this Court as “Final Compromise”.

These Second Appeals are disposed of in terms of the Memorandum of Compromise filed on 28.10.2021 entered into between the appellant and the respondents 8 and 9 and the Sketch attached hereto shall form part of the Decree. No costs.

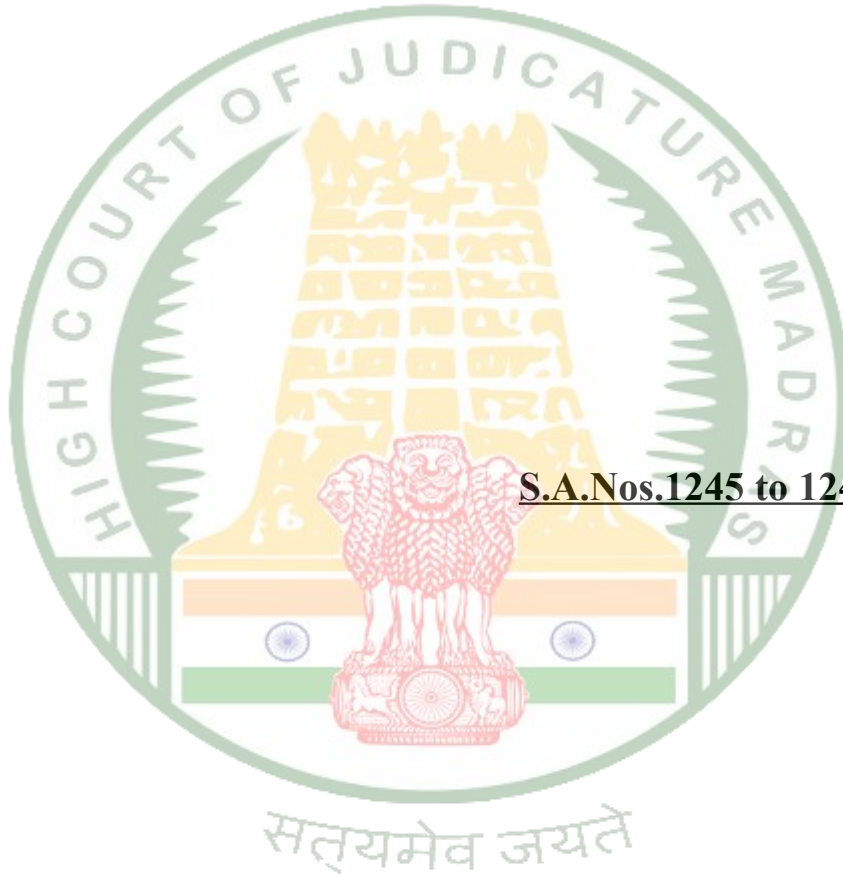
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