



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :23.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN
and
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

A.S. (MD) .Nos.576 and 626 of 2011

and

M.P. (MD)No.1 of 2011 and C.M.P. (MD) .No.5534 of 2018

A.S. (MD) .No.576 of 2011

- 1.Mrs.C.Leela
- 2.Mrs.Meera Saksena
- 3.Mrs.Hemamalini Subramanian (died)
- 4.L.Subramanian
- 5.S.Mythili
- 6.S.Lakshman Balaji Subramanian

(Appellants 4 to 6 are brought as LRs. of deceased third appellant as per the order of Court, dated 11.01.2016 made in M.P.(MD). Nos.2 to 4 of 2015 in A.S.(MD).No.576 of 2011).

... Appellants/defendant 1,2 &4

-vs-

- 1.C.Deivanga Perumal ...1st respondent/plaintiff
- 2.Mrs.Rajeswari Krishnamoorthy ...2nd Respondents/3rd Defendant

PRAYER: Appeal Suit is filed under Section 96 of the Civil Procedure Code, against the judgment and decree dated 09.03.2011 made in O.S.No.69 of 2008, on the file of the Additional District Sessions Judge, Fast Track Court No.II, Tirunelveli.

(*) For Appellants : Mr.T.R.Rajagopalan and
Mrs.N.Krishnavani Senior Advocate
for Mr.A.S.Chandrasekaran
and Mr.P.Thiyagarajan
For R1 : Mr.S.Parthasarathy, Sr. Counsel
Mr.T.V.Sivakumar
For R2 : Mr.S.Micheal Heldon Kumar



A.S. (MD) .No.626 of 2011

C.Daivangaperumal

... Appellant/Plaintiff

-vs-

- 1.Mrs.C.Leela
2.Mrs.Meera Saksena
3.Mrs.Rajeswari Krishnamoorthy
4.Mrs.Hemamalini Subramanian (died) ..1st to 4th respondent/Defendant
5.Dr.L.Subramanian
6.Dr.Mythili Raghavendra
7.Dr.Lakshman Balaji Subramanian

(Respondents 5 to 7 are brought as LR's. of deceased fourth respondent as per the order of Court, dated 11.01.2016 made in M.P.(MD). No.1 of 2015 in A.S.(MD).No.626 of 2011).

... Respondents

PRAYER: Appeal Suit is filed under Section 96 of the Civil Procedure Code, against the judgment and decree dated 09.03.2011 made in O.S.No.69 of 2008, on the file of the Additional District Judge, Fast Track No.II, Tirunelveli.

**(*) For Appellant : Mr.S.Parthasarathy, Sr. Counsel
Mr.T.V.Sivakumar**

**For R1, R2, R3 R5 to R7 : Mr.T.R.Rajagopalan and
Mrs.N.Krishnavani Senior Advocate
for Mr.P.Thiyagarajan**

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

(Judgment of the Court was delivered by V.BHARATHIDASAN,J.)

Against the preliminary decree passed in partition suit, the plaintiff filed an appeal in A.S.(MD).No.626 of 2011. Not satisfied with the decree, the defendants also filed an appeal in A.S.(MD). No.576 of 2011.

2. Pending appeals, the parties are settled the dispute between themselves. Today, **(*)Mr.S.Parthasarathy, learned Senior counsel appearing for the 1st Respondent in A.S.(MD).No.576 of 2011 and Appellant in A.S.(MD).No.626 of 2011, Mr.T.R.Rajagopalan and Mrs.N.Krishnavani Senior Advocate appearing for Respondent in A.S.(MD).No.626 of 2011 and Appellants and 2nd Respondent in A.S.(MD). No.576 of 2011** submitted that the matter has been settled between the parties and they have also filed a Joint Compromise Memo along with the court showing the division of the property between the



parties. The parties are also appeared before this Court through video conferencing and they are identified by the respective learned Senior counsels and they submitted that the appeals may be disposed of, in terms of the compromise memo filed by the parties.

3. The Joint Memo of Compromise filed by the parties reads as follows:

Common Joint Memo of Compromise between the appellant and the respondents

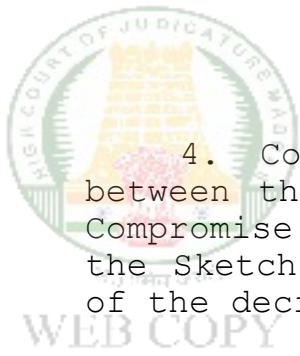
"1.The Appellant/Plaintiff herein preferred the above A.S(MD)No.626 of 2011 before this Hon'ble court against the judgment and decree passed in O.S.No.69 of 2008 on the file of Fast Track No.2 (Additional District Judge) Tirunelveli and the same is pending.

2.Similarly the Respondents 1, 2 and 4/defendants 1, 2 and 4 in A.S.(MD)No.576 of 2011 before this Hon'ble court against the judgment and decree passed in O.S.No.69 of 2008 on the file of Fast Track No.2 (Additional District Judge) Tirunelveli and the same is pending. The Appellant/Plaintiff is the first respondent in the said appeal. While the third defendant is the second respondent herein.

3.During the pendency of the above appeals the fourth respondent in A.S.(MD)No.626 of 2011 who was also the third appellant in A.S.(MD)No.576 of 2011 passed away. Thereupon her Legal heirs were brought on record as Respondents 5-7 in A.S.(MD)No.626 of 2011 and as Appellants 4-6 in A.S.(MD)No.576 of 2011.

4.After the disputes arose between parties in relation to the suit properties, the Appellant/Plaintiff herein filed the suit in O.S.No.69 of 2008 for Declaration, Partition, Permanent Injunction, Mandatory Injunction and for Mense profits. The said suit was partly decreed in favour of the Plaintiff/Appellant as against which the present appeals were preferred. The litigation between the parties is thus pending for more than 13 years.

5.As it is likely that all the parties in the above appeals could further suffer on account of the prolonged litigation, on the advice of well wishers and to put an end to the litigation as above and to enable the parties to enjoy the respective properties peacefully, they have decided to amicable settle all the disputes arising between them in O.S.No.69 of 2008. Therefore on the terms and conditions set out hereunder, the parties pray for compromise Final Decree being passed in the above First Appeals."



4. Considering the fact that the matter has been settled between the parties, the Appeals are disposed of, in terms of the Compromise entered between the parties. The Memo of Compromise and the Sketch filed along with the memo of compromise shall form part of the decree.

5. The learned Senior counsel appearing for the appellants submitted that since the parties had filed an Additional Sketch along with the Memo of Compromise, that copy may be enclosed in the decree.

6. Since the matter has been settled between the parties, the parties are directed to deposit necessary **(*)non-Judicial Stamp Papers**. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Records)

**(*)Amended as per the order of
this Hon'ble Court dated 20.01.2022**

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

akv

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

(*) TO BE SUBSTITUTED THE ORDER ALREADY DESPATCHED ON 20.10.2021

The Additional District Sessions Judge,
Fast Track Court No.II,
Tirunelveli.

Copy to

The Section Officer, V.R.Section (2C)
Madurai Bench of Madras High Court, Madurai



+2 CC to M/s.P.THIYAGARAJAN, Advocate (SR-30113[F],30112 dated 23/09/2021

WEB COPY

+2 CC to Mr.T.V.Sivakumar, Advocate Sr.No. 30103 of 23.09.2021
A.S.(MD).Nos.576 and 626 of 2011
28.09.2021

kmk (CO)

KB(12.10.2021) 5P 8C

TR(02.02.2022) 5P 8C