



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.02.2021

CORAM:

**THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MRS.JUSTICE S.KANNAMMAL**

**A.S (MD) NO.34 OF 2020
and
C.M.P (MD) No.1458 of 2020**

1.Arockiasamy (died)

2.Vasanth Anto Charlie ...Appellant/Third Respondent

Memo in USR No.3397, dated 9.2.2021 is recorded as sole appellant died and Respondents 4 to 7 who are already on record are recorded as Lrs of the deceased sole appellant vide order of this Court made in A.S(MD)No.34 of 2020, dated 11.2.2021.)

.vs.

1.Theras Xavier ...Ist Respondent/Plaintiff

2.Marikannu

3.Leema RoseRespondents 2 and 3/
Defendants 1 and 2

4.Anthuvarmary

5.Vasanth Anto Charlie

(R5 is transposed as A2 vide order of this Court made in C.M.P(MD)No.1505 of 2021 in A.S(MD)No.34 of 2020, dated 18.2.2021)

6.Merlin Mejula

7.Annie Sophia

8.M/s.Nilgiri Cements Private Limited,
by its Director,
No.1996-A, Krishna Colony,
Singanallur Town,
Coimbatore.

...Respondents 4 to 8/
Defendants 4 to 8



PRAYER: Appeal Suit filed under Section 96 of the Civil Procedure Code praying this Court to set aside the judgment and decree made in O.S.No.147 of 2015, dated 18.09.2019, on the file of Ist Additional District Judge(PCR), Tiruchirappalli.

For Appellant :Mr.K.Govindarajan

For Respondents :Mr.C.Gopinath
1 to 4,6 and 7

For Respondent-8 :No appearance

JUDGMENT

[Judgment of the Court was made by **PUSHPA SATHYANARAYANA, J.**]

The above appeal suit is directed against the judgment and decree made in O.S.No.147 of 2015, dated 18.09.2019, on the file of Ist Additional District Judge(PCR), Tiruchirappalli.

2.The suit is filed by the first respondent/plaintiff, for a preliminary decree of partition and for separate possession of 1/4th of the suit properties and for other reliefs. However during the pendency of the appeal suit, the sole appellant died.However, the parties have entered into a compromise and the same was reduced into writing and signed by them on 11.12.2020.The deceased sole appellant's legal heirs are already on record as respondents 2 to 7. Now, the 5th respondent/Vasanth Anto Charlie is transposed as appellant for the sake of recording this Joint Compromise Memo entered between the parties. The parties have appeared before this Court through video-conferencing and identified by the respective counsels. They have also stated that they are agreeable for the Joint Compromise filed by them and the terms set out therein. The terms of the Joint Compromise Memo reads as follows:

''(a) An extent of Ac.7.00 cents(Hec.2.82.5 Ares) out of Ac.22.00 ¼ cents (Hec.9.09.0 Ares) is described as suit Ist item. The first defendant(Marikannu), second defendant(Leema Rose) have executed a registered release deed in favour of Arockiasamy viz., third defendant. The third defendant along with his family members viz 3 to 7 defendant executed a sale on 6.2.2014 in favour of M/s.Neelagiri Cements Private Limited viz 8th defendant. In that sale deed, an extent of Ac.5.23 ½ cents out of Ac.7.00 cents was sold by defendants. The remaining extent available is Ac.1.76 ½ cents. The same has to be

adjudicated by the Plaintiff towards her 1/4th share.



(b)The suit second item is described Hec.5.53.0 Ares(Ac.13.50 cents) out of Hec.22.11.5 Ares(Ac.54.50 cents) in Punjai Survey No.191/3. As per preliminary decree, the Plaintiff is entitled to 1/4th share in this item. The first defendant (Marikannu), second defendant(Leema Rose) have executed a registered release deed in favour of Arockiasamy viz third defendant.The Third defendant along with his family members viz 3 to 7 defendant executed a sale on 06.02.2014 in favour of M/s.Neelagiri Cements Private Limited viz 8th defendant. In that sale deed, an extent of Ac.10.24 1/8 cents is sold. The remaining extent comes to Ac.3.40 5/6. The above said extent of Ac.3.40 5/6 compromised in Survey No.191/3 has to be allotted to the share of plaintiff towards her 1/4th share.

(c)The suit third item is described as an extent of Hec.0.20.85 Ares(Ac.0.51 Cents)out of Hec.0.77.5 Ares (Ac.1.91 cents)comprised in Punjai Survey No.191/4. The first defendant(Marikannu)second defendant(Leema Rose) have executed a registered release deed in favour of Arockiasamy viz third defendant. The third defendant along with his family members viz 3 to 7 defendant executed a sale on 6.2.2014 in favour of M/s.Neelagiri Cements Private Limited viz. 8th defendant. The remaining extent comes to Ac.0.13 ½. The above said extent of Ac.0.13 ½ comprised in Survey No.191/4 in suit item No.3 has to be allotted to the share of Plaintiff towards her 1/4th share.

(d)The suit 4th item is described as an extent of 8720 sq.ft comprised in Survey No.104/2. In this extent, an extent of Ac.0.13 cents was acquired by Highways Department. The remaining extent available on ground Ac.0.07 cents.The defendants have no objection for the plaintiff to receive her 1/4th share compensation from Highways Department in suit item No.4. After acquisition an extent of Ac.0.07 cents alone is left and it is agreed to allot ac.0.01 ¾ cents to the share of plaintiff out of Ac.0.07 cents.

(e) It is agreed to allot the entire suit item No.5 to the share of the plaintiff.

(f)It is agreed to allot 1/4th share in the suit item No.6 to the share of plaintiff.

(g)the plaintiff has agreed to give up her right of



share in suit item No.7 viz., the house property. The plaintiff, 1st and 2nd defendants are not entitled to any right in item No.7 of the suit property and the entire item No.7 absolutely belongs to defendants 4 to 7. The other parties namely plaintiff and defendants 1 and 2 (who executed Release Deed in favour of Defendants 4 to 7) have no right and title in respect of item No.7 of suit property.

Description of Property

Item 1:

Trichy District, Lalgudi Taluk, Kallakudi Village an extent of Hec.2,82.5 ares out of Hec.9.09.0 Ares comprised in Punja Survey No.191/1.

Item 2:

Trichy District, Lalgudi Taluk, Kallakudi Village an extent of Hec.5.53.0 ares out of Hec.22.11.5 Ares comprised in Punja Survey No.191/3.

Item 3:

Trichy District, Lalgudi Taluk, Kallakudi Village an extent of Hec.0.20.85 ares out of Hec.0.77.5 Ares comprised in Punja Survey No.191/4.

Item 4:

Trichy District, Lalgudi Taluk, Kallakudi Village an extent of Hec.0.20 equivalent to 8720 sq.ft comprised in Punja survey No.104.2.

Item 5:

Trichy District, Lalgudi Taluk, Kallakudi Village an extent of Hec.0.07.5 comprised in Punja Survey No.335/5B.

Item 6:

Trichy District, Lalgudi Taluk, Kallakudi Village an extent of 1853 sq.ft comprised in Punja Survey No.333/1B.

Item 7:

Trichy District, Lalgudi Taluk, Kallakudi Village an extent of 450 sq.meter plot comprised in Survey No.418/3, In this, a Mangalore Tiled house in an extent of 4.18.06 sq.meter together with ½ HP Motor Pumpset.'

3. In view of the above, the Appeal Suit is to be disposed of recording the Joint Compromise Memo. The Joint Compromise Memo is taken on file and the Appeal Suit is disposed of in terms of the Joint Compromise Memo filed by the parties. The said Compromise



Memo shall form part and parcel of the judgment and decree. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

WEB COPY

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

Encl:Xerox copy of joint compromise memo dt.06.01.2021

vsn

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

1.The Ist Additional District Judge(PCR),
Tiruchirappalli.

2.The Record Keeper-2 copies
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.K.GOVINDARAJAN, Advocate (SR-6046[F] dated 18/02/2021)

**JUDGMENT MADE IN
A.S(MD)NO.34 OF 2020**

**and
C.M.P (MD)No.1458 of 2020
18.02.2021**

KM (22.03.2021) 5P 5C