



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.10.2021

CORAM

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

C.R.P (MD) No. 1490 of 2014

and MP (MD) No.2 of 2014

WEB COPY

1.Benjamin Jayapal

2.Aswin Prabu

... Petitioners

Vs.

1.Edwin Chelladurai

2.The Government of Tamil

Rep.by the District Collector

Nagercoil,

Nagercoil Village

Agastheeswaram Taluk

Kanyakumari District

... Respondents

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 14.02.2013 made in I.A.No. 429 of 2012 in O.S. No.9 of 2011 on the file of the Principal District Munsif cum Judicial Magistrate Court, Eraniel

For Petitioners : Mr.P.Rajagopalan
for Mr.R.Devaraj

For Respondents :

No.1 : Mr.M.P.Senthil

No.2 : Mr.A.Baskaran

Government Advocate

O R D E R

The Civil Revision Petition has been taken up for final disposal based on the consent of both parties.

2.The first respondent has filed a suit in O.S.No.9 of 2011 on the file of the Principal District Munsif cum Judicial Magistrate Court, Eraniel for permanent injunction in respect of suit property comprised in S.No.C-2/5-10 house site land with the building bearing Door No.3-734 area of 1.5 cents at Kottil Paud, Colachel Village and Post, Kalkulam Taluk, Kanyakumari District. The petitioner as defendants 1 and 2 contended that there are in possession of suit property. In the suit the second respondent herein/Government has been impleaded as third defendant in the suit. Pending the above suit in O.S.No.9 of 2011 the first respondent had filed an application for amendment in I.A.No.429 of 2012 seeking relief of recovery possession. The learned District Munsif by an order dated 14.02.2013 allowed the application, against which the petitioners have preferred the above revision before this Court.



3.The petitioners and the first respondent are siblings. The petitioners and the first respondent after various rounds of deliberations have arrived at an amicable settlement and further agreed to arrive at settlement and entered into compromise and agreed to act based on the terms of compromise.

4.The learned counsel for the petitioners would submit that the contesting parties being brothers compromised the matter between themselves and they have filed a joint memo of compromise dated 22.10.2021.

5.The learned counsel for the first respondent would submit that the parties have entered into compromise and that the revision may be disposed of on the terms of the compromise and the trial Court may be directed to pass a decree based on the terms of the memo of compromise entered into between the parties in the revision.

6.The parties are present before this Court and they were identified by their respective counsels. The learned Government Advocate appearing for the second respondent /Government has no objection in the revision being disposed based on the terms of compromise.

7.The terms of the joint memo of compromise, dated 22.10.2021 between the parties, is extracted here under :

"1.It is submitted that the 1st respondent has filed a suit in O.S.No.9 of 2011 on the file of Principal District Munsif-Judicial Magistrate, Eraniel for permanent injunction in respect of suit property comprised in S.No.C-2/5-10 house site land with the building bearing door No.3-734 area of 1.5 cents at Kottil Paud, Colachel Village & Post, Kalkulam Taluk, Kanyakumari District.

2.It is submitted that the petitioners as defendants 1 & 2 contended that they are in the possession of the said property. The 2nd respondent herein, the government has impleaded as 3rd defendant in the suit.

3.It is submitted that pending the above suit in O.S.No.9 of 2011, the 1st respondent herein preferred an amendment application in I.A.No.429 of 2012 whereby seeking relief of recovery of possession as well. The Learned District Munsif by order dated 14.02.2013 allowed the application. It is against which, the petitioners have preferred the above Revision before this Hon'ble Court.

4.Now pending the above revision, the petitioners and the 1st respondent after various rounds of deliberations have arrived at an amicable settlement and has further agreed to act on the basis of the terms of compromise, mentioned below. As referred above, since the dispute is



only between the petitioners and the 1st respondent, the 2nd respondent/government is given up in the above Revision as not necessary for the compromise.

5.The terms of the compromise are as follows;-

i.The 2nd Petitioner/2nd defendant (Aswin Prabhu, S/o.Selvaraj) agreed to pay a sum of Rs.3,00,000/- (Rupees Three lakhs only) to the 1st respondent/plaintiff (Edwin Chelladurai, S/o. Selvaraj) on or before 31.01.2022 and the 2nd Petitioner/2nd defendant (Aswin Prabhu) is entitled to retain his possession of the suit property.

ii.It is further agreed that the 1st respondent/plaintiff (Edwin Chelladurai) agrees to return and handover the original documents in respect of the suit property to the 2nd Petitioner/2nd defendant (Aswin Prabhu) and the 2nd Petitioner/2nd Defendant (Aswin Prabhu) is entitled for mutation in revenue records to record his name in respect of the suit property and all other consequent changes before the concerned Authorities. On payment of the said sum of Rs.3,00,000/- within the stipulated time, the 1st respondent (Edwin Chelladurai) or his representatives or his heirs will have absolutely no claim, interest or right in respect of the schedule property.

iii.It is further agreed that on failure of the 2nd Petitioner/2nd Defendant (Aswin Prabhu) to pay a sum of Rs.3,00,000/- on or before 31.01.2022 to the 1st Respondent/Plaintiff (Edwin Chelladurai), the 2nd Petitioner/2nd defendant (Aswin Prabhu) and the 1st petitioner (Benjamin Jayapaul) agrees and undertakes to handover possession of the suit property to the 1st Respondent/Plaintiff (Edwin Chelladurai) on or before 31.03.2022.

iv.Both the petitioners and 1st respondent further agree that the suit in O.S.No.9 of 2011 on the file of Principal District Munsif-cum-Judicial Magistrate, Eraniel shall be also disposed in terms of the compromise. The above said terms of compromise and the supporting affidavit mentioned in clause (vii) herein shall form part and parcel of the decree to be passed in O.S.No.9 of 2011.

v.In case of failure on the part of the 2nd petitioner herein to pay the said sum of Rs.3,00,000/- (Rupees Three lakhs only) on or before 31.01.2022 and in sequence, both the petitioners/defendants 1&2 also fails to hand over the suit schedule property, the 1st respondent/plaintiff is entitled to execute the compromise decree to be passed in O.S.No.9 of 2011 on the file of Principal District Munsif-cum-Judicial Magistrate, Eraniel.



vi. The 1st Petitioner/1st defendant (Benjamin Jayapaul, S/o.Selvaraj) has no objection for the above terms and he has no rights what so ever in the suit property.

vii. The 1st Respondent/plaintiff (Edwin Chelladurai, S/o.Selvaraj) agree to get supporting affidavit from one of the brother namely Alex Baby John and the petitioners 1 and 2 / defendants 1 and 2 agreed to get supporting affidavit to this compromise memo from other brother namely S. Arulselvan, S/o. Selvaraj and sister namely Mahila, D/o. Selvaraj with regard to release of all their rights in the suit property on or before 30.11.2021.

viii. Either parties in the above compromise memo is entitled to register the above compromise decree to be passed in O.S.No.9 of 2011 on the file of Principal District Munsif-cum-Judicial Magistrate, Eraniel before the jurisdictional Sub-Registrar Office.

ix. The parties further agrees to dispose the revision in terms of the compromise memo.

x. The parties have entered into the above compromise memo on their own volition without any coercion whatsoever".

8. The Civil Revision Petition stands disposed of on the above terms of compromise dated 22.10.2021 and the Original Memorandum of Compromise shall form part of the order. The learned Trial Judge is directed to decree the suit in O.S.No.9 of 2011 pending on its file based on the above terms of compromise. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

aav

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.

ENCL:Xerox copy of joint compromise memo

To

1. The District Collector, Nagercoil, Nagercoil Village,
Agastheeswaram Taluk, Kanyakumari District.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Principal District Munsif cum Judicial Magistrate Court,
Eraniel.

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-32405[F] dated 25/10/2021)

+1 CC to M/s.SPL.GP (SR-32375[F] dated 25/10/2021)

C.R.P(MD) No. 1490 of 2014
and MP(MD) No.2 of 2014
22.10.2021

VR (CO)
GC/PM(11.11.2021) 5P 5C