



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

(Civil Appellate Jurisdiction)

Tuesday, the Twenty First day of September Two Thousand Twenty One

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

AS(MD) . No.161 of 2018

1.C.CHELLATHAI .. Appellant / Defendant

2.Jegan Vargheese
(This Court impleaded the second appellant
vide order dated 21.09.2021
in C.M.P.(MD)No.7764 of 2021) ... Proposed
Appellant/2nd Appellant

-Vs-

Jebamony Dhas ... Respondent / Plaintiff

PRAYER: This Appeal Suit filed under Section 96 of the Civil Procedure Code, against the judgment and decree in O.S.No.9 of 2012 on the file of the District Judge, Kanyakumari District, Nagercoil, dated 31.08.2017.

DECREE: This Appeal Suit is coming on for hearing on this date, upon perusing the grounds of Appeal, the judgments and decrees of the Lower Appellate Court and Court of First Instance and the material papers in the suit and upon hearing the arguments of Mr.M.P.Senthil, Advocate for the Appellant and Mr.H.Thayumanaswamy, Advocate for the Respondent and considering the Joint Compromise memo dated 21.09.2021 filed in AS(MD).No.161 of 2018 by both the parties and their counsels, this court while disposing the Appeal Suit in terms of the above said Joint Memo, doth order and decree as follows:

1)The Judgment and Decree of the District Judge, Kanyakumari District at Nagercoil made in O.S.No.9 of 2012 be and hereby modified in terms of the Joint Compromise Memo filed and relevant portion of the Joint Compromise Memo as follows:

- i.That the appellants herein agrees to pay a total sum of Rs.16,00,000/- (Rupees sixteen lakhs only) by way of demand draft dated 17.09.2021 bearing No.620207 drawn on South Indian Bank Limited, Thuckalay in the name of the respondent as a full and final settlement out of the total claim made by the respondent i.e sum of



Rs.27,50,000/- for all three matters.

ii. That the respondent herein agrees to receive the above said amount of Rs.16,00,000/- (Rupees sixteen lakhs only) as a full and final settlement, satisfaction for the entire money claim made by the respondent against the appellants.

iii. That the appellants agree that the respondent is entitled to receive the entire Court fee paid in the above appeal i.e a sum of Rs.54,418/- (Rupees fifty four thousand four hundred and eighteen only) in AS.No.161 of 2018 on the file of this Hon'ble Court. Similarly, a sum of Rs.1,12,146/- (Rupees one lakh twelve thousand one hundred and forty six only) in O.S.No. 3 of 2015 which is pending on the file of Additional District Judge, Padmanabhapuram. Likewise a sum of Rs.68,860/- (Rupees sixty eight thousand eight hundred and sixty only) in O.S.No.68 of 2012 on the file of Sub-Court, Kuzhithurai.

iv. That the respondent further agrees to say no objection to set aside the ex-parte decree dated 01.07.2017 passed in O.S.No.68 of 2012 on the file of Learned Sub-Court, Kuzhithurai having regard to the payment now received by him as a full satisfaction and agrees to withdraw the suit in O.S.No.68 of 2012. The respondent is also entitled to seek for re-payment of court fee paid by him in O.S.No.68 of 2012 i.e. a sum of Rs.68,860/-.

v. That the respondent having now received the entire claim made by him against the appellants, the respondent hereby undertakes and agrees to withdraw the following suit as well as criminal appeal:-

a) The suit in O.S.No.3 of 2015 pending on the file of the Learned Additional District Judge, Padmanabhapuram.

b) The suit in O.S.No.68 of 2012 on the file of Sub Court, Kuzhithurai.

c) The Crl.A.No.106 of 2019 on the file of Learned District-cum-Sessions Judge, Kanyakumari at Nagercoil.

vi. That it is further agreed by the respondent to forthwith raise the attachment order passed in I.A.No.41 of 2012 in O.S.No.9 of 2012 on the file of Learned District Judge, Nagercoil by its order dated 10.04.2012 in respect of the property referred as 1st schedule hereunder which is also reflected in the encumbrance certificate as Doc.No.9/2012 on the file of Sub-



vii. That It is further agreed by the respondent to forthwith raise the attachment order passed in I.A.No.18 of 2015 in O.S.No.3 of 2015 on the file of Learned Additional District Judge, Padmanabhapuram dated 06.02.2015 in respect of the property referred as 2nd schedule hereunder and the same is reflected in the encumbrance certificate as Doc.No.28/2015 on the file of Sub-Registrar office, Verkilambi.

viii. That the said sum of Rs.16,00,000/- (Rupees sixteen lakhs only) is hereby paid to the respondent by the appellants by way of demand draft dated 17.09.2021 bearing No.620207 drawn on South Indian Bank Limited, Thuckalay and the respondent hereby acknowledges the receipt of the said demand draft towards full and final settlement of entire dues. The respondent affirms that he has absolutely no claim whatsoever against the appellants.

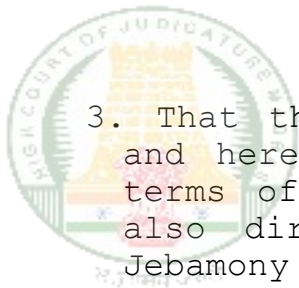
ix. That, both the parties in the above appeal are entitled to get back the original documents filed by them/produced by them before the trial court. It is further agreed by both the parties that they have absolutely no objection for receiving their respective documents produced before the trial court both in the civil as well as criminal cases.

x. That the parties have entered into the above compromise on their own volition without any coercion whatsoever and that they do not have any other claims as against each other and that all the issues in between them has been settled once for all.

xi. That the parties agree and undertake that the parties to this compromise memo means and include their respective legal heirs claiming under them and the terms of the above compromise memo shall bind them also.

xii. That the parties further agree and undertake that the above terms of compromise be recorded in the appeal and the appeal shall be disposed in terms of the above compromise memo. Further, both the parties agree and undertake that they shall abide by the above terms of compromise.

2. That the Registry be and hereby is directed to refund the Court fee of Rs.54,418/- in favour of the Respondent in his Account No. A/C: 1768155000004821, Karur Vysya Bank, Marthandam, IFC: KVBL0001768 at the earliest.



3. That the Learned Additional District Judge, Padmanabhapuram be and hereby is directed to dispose the O.S.No.3 of 2015 in the terms of Joint Compromise Memo on production of this order and also directed to refund the Court fee of Rs.1,12,146/- to Jebamony Dhas (Respondent/Plaintiff) at the earliest.

4. That the Sub Court, Kuzhithurai be and hereby is directed to allow the I.A in O.S.No.68 of 2012 for setting aside the same and also dispose the O.S.No.68 of 2012 in terms of compromise memo and also directed to refund the Court fee of Rs.68,860/- to the plaintiff Jebamony Dhas (Respondent/Plaintiff).

5. That in respect of I.A.No.41 of 2012 in O.S.No.9 of 2012, the trial court below the District Court, Kanyakumari at Nagercoil be and hereby is directed to send an appropriate communication to the office of SRO, Palliyadi for deleting the encumbrance.

6. That in respect of I.A.No.18 of 2015 in O.S.No.3 of 2015, the trial Court below the Additional District Court, Padmanabhapuram be and hereby directed to send an appropriate communication to the SRO, Verkilambi.

7. That the respective parties be and hereby are entitled to take back the original document filed by them before the Courts concerned.

8. That the original document filed by the appellant as additional evidence shall be returned to the appellant's counsel, and

9. The Appeal is accordingly disposed of and that there be no costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

Encl : Joint Compromise Memo
dated 21.09.2021 along with schedule of properties
is annexed herewith.

TO

The District Judge, Kanyakumari District, Nagercoil.
(copy of the Joint compromise memo is annexed)



Copy to:

1. The Additional District Judge, Padmanabhapuram.
(copy of the Joint compromise memo is annexed)
2. Sub Judge, Kuzhithurai.
(copy of the Joint compromise memo is annexed)
3. The Sub Assistant Registrar,
Co Section,
Madurai Bench of Madras High Court
Madurai.
(To refund the Court fee)
4. The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court, Madurai.
(to return the original document)

+1 CC to M/s.H.THAYUMANASWAMY, Advocate, SR-30088

+5 CC to M/s.M.P.SENTHIL, Advocate, SR-29732

ORDER DATED : 21/09/2021

=====

DECREE

=====

AS(MD). No.161 of 2018

Nature of Decree :

Disposing the Appeal Suit in terms of the above said Joint Memo dated 21.9.2021, against the judgment and decree in O.S.No.9 of 2012 on the file of the District Judge, Kanyakumari District, Nagercoil, dated 31.08.2017., etc, as stated within.

KB(22.11.2021) 5P 13C