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S.A.No.819 of 2007



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

S.A.No.819 of 2007
and M.P.No.1 of 2007

1.T.A.Hariba

2.T.P.Abdul Rehman (Died)

3.Hussain Babu

(3rd appellant brought on record as LR of the
deceased 2nd appellant vide Order of Court dated
17.02.2020 made in CMP.No.36261/2020
in S.A.No.819/2007)

... Appellants

Versus

1.T.M.Sirajudeen

2.T.A.Ibrahim

(2nd appellant transposed to 2nd respondent vide
order of Court dated 27.01.2020 made in
CMP.No.1271/2020 in S.A.No.819/2007)

... Respondents

Prayer: Second Appeal filed under Section 100 of the Code of Civil Procedure, against the judgment and decree passed in A.S.No.103 of 2006 on the file of the Appellate Authority and 2nd Additional Sub-Court, Coimbatore District, dated 04.11.2006 reversing the judgment and decree passed in O.S.No.269 of 2002 on the file of the 3rd Additional District Munsif Court, Coimbatore, dated 13.04.2006.

For Appellants : Mr.S.Kasirajan

For R1 : Mr.C.D.Sugumar

For R2 : Notice not ready



JUDGMENT

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When the matter is taken up for hearing, both the learned counsel appearing for the appellants as well as the 1st respondent would submit that the dispute between the parties had already been settled amicably and they also filed a Joint Memo of compromise duly signed by the appellants as well as by the respondents along with their respective learned counsel. The terms of the said Joint Memo of Compromise are extracted hereunder:

"1. The 1st, 2nd and 3rd appellants are the wife, brother in law and father in law respectively of the respondent herein. The 1st appellant viz. Tmt.T.A.Hariba is the wife of the respondent. They got married on 23.02.1984. Out of the said marriage, they got two children viz., (1) Ibrahim and (2) Shakila. Due to difference of opinion, the 1st appellant and the respondent have been living separately. The 1st appellant with her own earnings got the 2 children educated and then arranged their marriage.

2. The suit schedule property roughly 928 sq.feet of land with building was purchased by Moideen Rowther in the name of his wife Sarammal on 05.01.1958 registered as Document No.255 of 1958 in the Office of the District Registrar, Coimbatore. The respondent's mother died on 29.02.1984. Following her death, 3/4 of her property devolves upon the respondent and 1/4th of the property devolves upon the respondent's father Moideen Rowther. The respondent's father



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executed a Release Deed in favour of the respondent with respect to his 1/4th share on 14.06.1984 registered as Document No.2557 of 1984 in the Office of the District Registrar, Coimbatore. Thereafter, the respondent herein executed a Deed of Settlement in favour of the 1st appellant/wife on 20.09.2001 registered as Document No.2720 of 2001 in the Office of the Joint Sub Registrar No.1, Coimbatore.

3. Apprehending disturbance in his peaceful possession and enjoyment of the suit property, the respondent herein filed a suit in O.S.No.269 of 2002 on the file of the III Addl.District Munsif Court, Coimbatore against the appellants herein praying for permanent injunction restraining the appellants not to disturb the peaceful possession and enjoyment of the suit schedule property. The said suit in O.S.No.269 of 2002 came to be dismissed on 13.04.2006. Against such findings, the respondent herein filed an appeal in A.S.No.103 of 2006 on the file of the Appellate Authority cum II Addl. Sub Court, Coimbatore where the said appeal came to be allowed on 04.11.2006. Challenging the finding in A.S.No.103 of 2006, the appellants herein filed the above Second Appeal in S.A.No.819 of 2007.

4. After a long period of separation, the 2 children of the 1st appellant and the respondent approached the respondent and convinced him to reconcile with the 1st appellant/wife and both the children asked her parents to



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forget about the past events and forgive each other. As a result of the efforts taken by the two children of the 1st appellant and the respondent, the 1st appellant and the respondent decided to enter into a memo of compromise in the following terms and conditions:

A) The respondent agrees that as per the Deed of Settlement executed by the respondent herein in favour of the 1st appellant/wife on 20.09.2001 registered as Document No.2720 of 2001 in the Office of the Joint Sub Registrar No.I, Coimbatore, the 1st appellant is the absolute owner of the suit schedule property. The respondent herein or any one claiming under him will not question the right/ownership of such suit schedule of property of the 1st appellant/wife by way of filing any suit in future.

B) The 1st appellant agrees that she or her two children will not disturb the respondent herein to be in possession of the suit schedule property till his life time.

For the reasons stated above, the 1st appellant and the respondent herein pray that this Hon'ble High Court may be pleased to record the above terms and conditions as stated in the Joint Memo of Compromise entered into between the 1st appellant and the respondent."

2. In view of the settlement arrived at between the parties, no further



adjudication needs to be arrived in this appeal in respect of the grounds raised therein.

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3. Accordingly, this Second Appeal stands disposed in terms of the Joint Memo of Compromise. Both parties shall bear their own costs. The Joint Memo of Compromise shall form part of the decree. Consequently, connected Miscellaneous Petition is closed.

15.11.2022

gbi

Index : Yes / No

Internet : Yes / No

To

1.The Appellate Authority and 2nd Additional Sub-Court,
Coimbatore District.

2.The 3rd Additional District Munsif Court,
Coimbatore.



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KRISHNAN RAMASAMY, J.,

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