



S.A.No.1212 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2022

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

S.A.No.1212 of 2011

P.Palaniammal

...Appellant

Versus

M.Sekar

...Respondent

Prayer: Second Appeal filed Under Section 100 of the Code of Civil Procedure against the Judgment and Decree dated 26.10.2009 made in A.S.No.190 of 2008 on the file of the Sub Court, Tiruchengode reversing the Judgment and Decree dated 26.03.2008 made in O.S.No.407 of 2007 on the file of the District Munsif, Tiruchengode.

For Appellant : Mr.M.S.Palaniswamy

For Respondent : Mr.S.L.Sudharsanam

JUDGEMENT

This Second Appeal is preferred as against the Judgment and Decree dated 26.10.2009 made in A.S.No.190 of 2008 on the file of the Sub Court,



S.A.No.1212 of 2011

Tiruchengode reversing the Judgment and Decree dated 26.03.2008 made in O.S.No.407 of 2007 on the file of the District Munsif, Tiruchengode.

2.The learned counsel appearing for either parties would submit that the matter has been settled out of Court and filed a Joint Compromise Memo dated 15.10.2022, duly signed by the appellant and respondent and prayed to dispose of the present Second Appeal.

3.The terms of Joint Compromise Memo is extracted hereunder:

“The suit in O.S.No.407 of 2007 was filed by the Respondent / Plaintiff before the District Munsiff Court, Tiruchengode for the relief of Specific performance based on the registered sale agreement dated 17.09.1996. The trial court passed a judgment and decree dated 26.03.2008 directing the Appellant / Defendant to refund the advance amount of Rs.40,000/- with interest at the rate of 18% from the date of agreement. Accordingly this appellant / defendant has deposited Rs. 1,22,980/- (One lakh Twenty Two Thousand Nine Hundred and Eighty only) in the credit of O.S.No.407/2007, before the



WEB COPY



S.A.No.1212 of 2011

District Tiruchengode, Namakkal District.

2. The respondent / plaintiff filed an appeal in A.S.No.190/2008 on the file of Sub Court, Tiruchengode against the Judgement Decree in [O.S.No 107 of 2007](#) dated 26.08.2008. The said appeal was allowed by the Sub-Court on 26.10.2009 and setaside the judgement decree passed by the District Munsiff court and specific performance was ordered.

3.The above second appeal was filed by appellant / defendant against the Judgement Decree passed by the Sub Court Tiruchengode in A.S.No.190 of 2008 dated 26.10.2009 and same is pending disposal.

4.While pending the Second Appeal the parties are settled the matter amicably by executing cancellation of sale agreement dated 10.09.2022 in vide document No.8058 of 2022 on the file Sub Registrar, Tiruchengode and thereby cancelled the sale agreement dated 17.09.1996 (subject matter of the suit in O.S.No.407 of 2007 on the file of DMC, Tiruchengode).



S.A.No.1212 of 2011

5. The respondent / plaintiff have no objection to withdraw the amount deposited by the appellant / defendant for Rs. 1,22,980/- with accrued interest in the credit c O.S.No.407/2007 on the file of District Munsiff Cour Tiruchengode (vide Challan No.207169 dated 13.06.2008).

4.Recording the Joint Memorandum of Compromise filed by either parties, this Court passes the following judgment:

a. The appellant / defendant is permitted to withdraw the amount deposited viz., Rs. 1,22,980/- with accrued interest in the credit of O.S.No.407/2007 on the file of District Munsiff Court, Tiruchengode (vide Challan No.207169 dated 13.06.2008).

b. The District Munsiff court, Tiruchengode is directed to allow the appellant / defendant to withdraw the amount of Rs. 1,22,980/- with accrued interest.

c. The Joint Memo of Compromise shall form part and parcel of the judgment and decree.



S.A.No.1212 of 2011

WEB COPY 5. Accordingly, the Second Appeal is disposed of with the above directions. No costs.

01.11.2022

rst

Index : Yes / No

Internet : Yes / No

Speaking Order / Non Speaking Order

To

1. The Additional District Judge,
Fast Track Court – V, Chennai.

2. The I Assistant Judge,
City Civil Court, Chennai.



WEB COPY



S.A.No.1212 of 2011

KRISHNAN RAMASAMY, J.

rst

S.A.No.1212 of 2011

01.11.2022