



C.R.P.(PD) No.676 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 07.03.2022

CORAM : JUSTICE N.SESHASAYEE

C.R.P.(PD) No.676 of 2022

1.V.Devishanmugapriya
2.Minor Kranish
3.Minor Kiranika

... Plaintiffs / Petitioners

Vs.

1.K.Velumani
2.K.Samudevi
3.V.Yamunadevi

... Defendants / Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to direct the I Additional District Judge, Erode, to record the compromise between the petitioners and the respondents in O.S.No.162 of 2018 on the file of the I Additional District Judge, Erode, pursuant to the order dated 04.01.2022 passed by the I Additional District Judge, Erode in I.A.No.1 of 2019 in O.S.No.162 of 2018.

For Petitioners : Mr.K.Sharath Chandran
For Respondents : Mr.MS.Seshadri



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ORDER

This matter is taken up today. To provide continuity, this Court extracts the order passed by this Court on 04.03.2022 :

“The parties are present before the Court along with their respective counsels. Heard both sides.

2. The circumstances are tragic, and as the saying goes when calamity strikes sometime, it descends. Thus has descended a calamity in the life of the revision petitioners herein. She is a young widow.

3.This revision is preferred for directing the I Additional District Court to record a compromise which parties to the suit have entered into, as it was prevented by some third parties to the litigation.

4.1 The second defendant Tmt.Samudevi has two sons namely Venkateswaran and Velumani, the first defendant. Venkateswaran has passed away leaving behind him his young widow and two young children. These children are just the morning bloom as this Court could witness. The family had certain ancestral properties.

4.2 Venkateswaran's widow is the first plaintiff with two of her young children as plaintiffs 2 and 3, have filed a suit for partition in O.S.No.162 of 2018 before the District Court, Erode against the respondents 1 and 2 herein. This suit is being amicably compromised between the parties to the suit. However, since interest



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of the minors are involved, the parties moved I.A.No.1 of 2019 before the I Additional District Court, Erode, seeking the leave of the Court to enter into a compromise. This I.A., was allowed on 04.02.2022.

4.3 The stage is now set for recording the compromise, as has been agreed upon by the parties, and to pass a compromise decree in terms thereof. For this purpose, I.A.No.11/2022 was taken out by the parties, but no compromise was recorded yet.

5. This revision is now taken out by the plaintiffs to direct the learned District Judge to record the compromise in terms of I.A.No.11 of 2022, as the same was not yet recorded for close to a month.

6. Mr.M.S.Seshadri, Advocate, enters appearance for the respondents.

7.1 Mr.K.Sharath Chandran, learned counsel for the revision petitioner explained that to the extent he was instructed, the reason why the learned District Judge could not record the compromise is because a barrage of third party petitions or accusations are made to obstruct the District Court to perform his job, vis-a-vis, the compromise which the parties have voluntarily and consciously have entered into.

7.2 Elaborating the same, the learned counsel would say that the first plaintiff's father was a certain Nagaraj. Needless to say, he is the father-in-law of deceased Venkateswaran. He had earlier filed



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G.W.O.P.No.32 of 2020 before the I Additional District Judge, Erode against her daughter Devishanmugapriya, seeking to appoint him as the guardian of properties of his grand children. During the pendency of GWOP, Nagaraj died, and Nagaraj's brother Jayaraman (uncle of Devishanmugapriya) attempted to step into the shoes of his brother Nagaraj, vide I.A.No.4 of 2021. This was dismissed. Thereafter, Jayaraman began to fashion and design varieties of obstructions to impede the progress of this case. Indeed he is stated to have even filed G.W.O.P.No.6/2022 for appointing him as the guardian of the minor children against their natural guardian – their mother Devi Shanmugapriya. The District Court was put to extreme stress even to lay its hands on this litigation. The learned District Judge has passed an order on 16.02.2022, which reads as below :

“ Mail received on 21.01.2022 – III party S.Jeyaraman who sent this mail present and has endorsed that he received copy of order in IA.4/2021 in GWOP 32/2020 on 31.1.2021 and it is recorded. Memo filed in box on 10.2.2022 -III party S.Jayaraman who filed this memo present. This memo is recorded, but on the basis of this memo no order legally can be passed. Mail received on 11.2.2022 – III party S.Jarayaman who sent this mail present and this memo is recorded, but on the basis of memo no order legally can be passed. IA 11/2022 -I, II, III petitioners, R1, R2, R3 and petitioners and respondents' counsels are present. III party S.Jayaraman present and counsel who represents III party S.Jayaraman states that petitions are filed in box today. Hence call on 22.2.2022 OS.162/2018 – Issues. Letter received from Mr.S.Jayaraman on 21.1.2022 in mail. Memo filed on behalf of the petitioner / 3rd party on 10.2.2022 in box, mail received on 11.2.2022c, u/o 23 R 3 of cpc petition filed in IA.11/2022 is pending. Two mails and one memo of III party recorded. I,II and III plaintiffs, D1, D2 and



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D3 are present. Plaintiff and defendants counsel also present. III party S.Jayaraman present. Counsel who represents III party S.Jayaraman states that petitions are filed in box today/. Hence call on 22.2.2022.

8. No party to the proceedings or third party to the proceedings can address the Court directly in any pending matters or even otherwise. That would amount to interference with administration of justice, and will constitute criminal contempt of Court. This Court would have appreciated if the learned I Additional District Judge concerned had initiated an action for criminal contempt by addressing the High Court. No judicial officer shall be put to any stress or duress by anybody, and will be neither appreciated nor tolerated by this Court. It interferes with the independence of judiciary, and it has to be sternly checked. Jayaraman has no locus standi to interfere in the pending suit nor, can he obstruct the parties to the Court from compromising the matter.

9. Given the extraordinary nature of the circumstances, it is only befitting that instead of this Court directing the learned District Judge to pass a decree in terms of the compromise, this Court directs the entire suit be transferred to this Court to enable the Court to record the compromise.

10. The Registry is now required to make available the records of the suit in O.S.No.162 of 2018 pending on the file of the I Additional District Court, Erode, by a special messenger, as to reach this Court on 07.03.2022.



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11. All the parties including the minor children who are present before this Court today, are required to appear again at 2.15 p.m., on 07.3.2022. The parties are also required to make available the proof of their identity to enable the Court to ascertain their identity.”

2. As directed by this Court, the records of the Court below was made available for recording the compromise.

3. This Court enquired both the sides as well as the counsel representing them. Parties hereto agreed that they have voluntarily entered into a compromise. Indeed, this Court is informed that Venkateswaran had passed away, his mother Samudevi, the second defendant herein is entitled to a share as Class-I heir. Under this compromise, the second defendant is giving up her interest in the share in favour of the two minor children namely 2nd and 3rd petitioners herein. This apart, there was another property which are the house sites bearing numbers 49 and 56 at URC Nagar, Erode Town stands in the name of the plaintiff and the third defendant, and that the third defendant is now desired to give up her 50% share in these two items of properties in favour of the plaintiffs. Besides, a sum of Rs.1,50,00,000/- (Rupees One Crore Fifty Lakhs only) is given by way of Demand Draft, which has to be shared equally between all the three



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plaintiffs. Of them, Rs.1,00,00,000/- (Rupees One Crore only) shall be shared equally by each of the minors namely the plaintiffs 2 and 3, and this shall be invested in fixed deposit in a Nationalised Bank, and the interest thereof alone shall be used for their maintenance, upkeep, including their education.

4. This Court is satisfied about the legality of the compromise, and also satisfied that minors are provided with more than what they may bargain for in the suit. In other words, the compromise has also been fair to the minors.

5. This Court now records the compromise, and a decree be passed in terms thereof, and the compromise memo has to be made a part of the decree.

6. To protect the interest of the minors from any possible or potential grabbers of their estate, this Court directs that the compromise decree be registered before the concerned Sub Registry. The defendants offered to meet the expenses of registration of the compromise decree.



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7. The amount directed to be paid to the minors shall be deposited in a fixed deposit scheme in a Nationalised Bank, and the details therefore must be informed to the I Additional District Judge, Erode. On every renewal, the same shall be intimated to the District Court concerned.

8. With the above directions, this revision petition is disposed of. No costs. The Registry is directed to send back the papers to the trial Court to enable it to draft the compromise decree.

07.03.2022

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Index : Yes / No

Internet : Yes / No

Speaking order / Non-speaking order

To:

1.The I Additional District Court
Erode.

2.The VR Section
High Court, Madras.



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N.SESHASAYEE.J.,

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