



C.S.(Comm.Div.)No.46 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.S.(Comm.Div.)No.46 of 2021

in

A.No.4010 of 2021

1. Mr.R.Gopalakrishnan

2. Mrs.G.Nithya

... Plaintiffs

Vs

1. M/s.Balarama Krishna Flour Mills

Represented by its Partner,

Mr.A.Ganesh Rajah.

2. Mr.A.Ganesh Rajah,

Partner of M/s.Balarama Krishna Flour Mills.

3. Smt.Vijita Jagadeesh,

Partner of M/s.Balarama Krishna Flour Mills.

4. M/s.Quality Roller Flour Mills Private Limited,

Represented by its Managing Director,

A.Ganesh Rajah.

... Defendants



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Prayer: This Civil Suit is filed under Order IV Rule 1 and 2 of the Original Side Rules read with Order VII Rule 1 of the Code of Civil Procedure, 1908, prayed for a Judgment and Decree:-

a) Directing the defendants to quit and deliver vacant possession of the suit schedule mentioned property to the Plaintiffs;

b) Directing the defendants jointly and severally to pay a sum of Rs.58,50,000/- (Rupees Fifty Eight Lakhs Fifty Thousand Only) to the Plaintiffs towards the damages for use and occupation of the suit schedule mentioned property for the past period from 31.01.2019 to 29.02.2020 together with interest @ 18% per annum on Rs.58,50,000/- (Rupees Fifty Eight Lakhs Fifty Thousand Only) from the date of suit till the date of realization;

c) Directing the defendants to pay the future damages of Rs.4,50,000/- (Rupees Four Lakhs Fifty Thousand Only) per month for use and occupation of the suit schedule mentioned property from the date of suit till vacate and hand over possession of the same to the Plaintiffs and

d) Directing the defendants to pay the costs of the suit to the Plaintiffs.



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For Plaintiffs : Mr.K.S.Ganesh Babu
For Defendants :
For D1 and D3 : Ex-parte
For D2 and D4 : M/s.Rukmani R.V.
For Mr.P.B.Ramanujam

JUDGMENT

Today when the matter is taken up for hearing, the learned Counsel for the plaintiffs and the defendants have filed a Joint Memorandum of Compromise recording the satisfaction of the suit claim and the settlement of *inter se* dispute between the plaintiffs and the defendants.

2. The Joint Memo of Compromise dated 06.02.2023 had been forwarded to the Registry, in which, the Plaintiffs and the first, second and fourth defendants have signed. It has also been signed by the learned Counsel for the plaintiffs and the defendants. As far as the suit against the third defendant is concerned, the plaintiffs have prayed for the dismissal of the suit in terms of the Joint Memorandum of Compromise.



3. The terms of the Joint Memorandum of Compromise are as follows:-

JOINT MEMORANDUM OF COMPROMISE

Pending the above suit, the Plaintiffs and the 1st and 4th Defendant represented by the 2nd Defendant as its Managing Partner and Managing Director respectively, have met in the presence of their respective Counsel and deliberated on various modes of amicable settlement and after several rounds of negotiations and discussions, taking into account the location of the property, the superstructure owned by the 4th Defendant and the plant and machinery embedded to the earth, the parties have arrived at the following terms of compromise.

Now this Joint Memo of Compromise, witnesseth as follows:

1. The 1st, 2nd and 4th Defendants have agreed to vacate and hand over the suit property and also give up their claims/rights under Section 9 of the City Tenant Protection Act.

2. In consideration of the same, the Plaintiffs have agreed to pay the 4th Defendant a total sum of Rs.80,00,000/- (Rupees Eighty Lakhs Only), towards them giving up their claims under Section 9 of the City Tenants Protection Act, as compensation for the building, Plant and Machinery owned by them in the following manner:



- a) *Sum of Rs.25,00,000/-(Rupees twenty five lakhs only) on or before 15.02.2023.*
- b) *Sum of Rs.25,00,000/-(Rupees twenty five lakhs only) on or before 15.03.2023; and*
- c) *Sum of Rs.30,00,000/- (Rupees thirty lakhs only) on or before 30.04.2023 across the 4th Defendant vacating and handing over vacant possession of the suit property to the Plaintiffs.*

3. *The 2nd Defendant shall remove all the movable assets, not being embedded to earth, belonging to the 4th Defendant within 30 days from the date of entering into this Joint Memo of Compromise and on the 31st day, the Plaintiffs will be allowed to enter the suit property for purposes of only removing the plant and machinery embedded to the earth. However, the motors connected to the machinery shall not be disconnected from the power supply to avoid any electrical short circuit or fire breakouts.*

4. *It is made clear that the permission given to the Plaintiffs is to enter the property is only for the sale of the plant and machineries and does not tantamount to giving possession of the land and building given to the Plaintiffs.*

5. *The Plaintiffs agree that in the event of non-payment/failure in payment of the amounts as per the schedule mentioned in Clause (2) above, the Plaintiffs agree to pay the 4th Defendant, interest @ 24% p.a. on the unpaid amount and in addition to this, the 2nd and 4th Defendants shall not be obligated to handover the property to the Plaintiffs as above stated.*



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6. *The 3rd Defendant is not proper and necessary parties to the present suit since the 4th Defendant has taken over the 1st Defendant Mill as early as on 01.11.1998 itself. However, in the event of any claim being made by the 3rd Defendant or anyone claiming under them, on the suit property, the 2nd and 4th Defendants shall alone take care of such claims and the Plaintiffs shall not be saddled with any liability whatsoever. The suit may be dismissed as against Defendants 3.*

7. *The 2nd and 4th Defendants have to pay and clear the property tax, metro water and sewerage tax and Electricity Board Charges etc., and statutory dues to the authorities till the date of handing over the possession of land and building of the suit schedule property.*

8. *The 2nd and 4th Defendants agreed to sign, execute and register before concern Registration Office/Department any deed, documents, etc., to confirm the handing over of the possession of the land and building of the suit schedule property to the Plaintiffs and transfer of the ownership of the building in the suit schedule property, if the Plaintiffs require and the costs for the same shall be borne by the Plaintiffs.*

9. *The parties shall have no other mutual claims against each other.*



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4. Since both the parties have agreed to the terms of the Joint Memorandum of Compromise, the same is recorded and accordingly this Civil Suit is decreed. No costs. The Joint Memorandum of Compromise shall form part of the decree. Consequently, the connected Application is closed.

07.02.2023

Internet : Yes / No

Index : Yes / No

Speaking Order/Non-Speaking Order

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C.SARAVANAN, J.

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