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A.S.No.390 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MRS.JUSTICE N.MALA

A.S.No.390 of 2014
and M.P.No.1 of 2014

1.T.Dinesh Kumar
2.T.Raghupathy

... Appellants

Vs.

1.N.Thangavelu
2.A.Maruthachalamurthy
3.D.Venugopal
4.N.Elankumaran
5.A.Rukmani
6.N.Natarajan
7.P.Krishnaswamy
8.B.Radhamani
9.N.Thirunavukkarasu
10.S.Selvakumar
11.M.Kalaiselvan
12.K.Selvanayakam
13.N.Rathinam
14.V.Nagaraj
15.M.Radhamani
16.V.Sunish
17.V.Dinesh

... Respondents



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Prayer:- Appeal Suit filed under Section 96 C.P.C., against the judgment and decree dated 12.06.2013 made in O.S.No.436 of 2011 passed by the learned V Additional District and Sessions Judge (Formerly F.T.C.No.III) Coimbatore.

For Appellants	: Mr.S.Rajendra Kumar
For R1	: Mr.A.Suresh Sakthi Murugan
For R4 to R9, R11 to R17	: Mr.M.N.Balakrishnan
For R2, R3 & R10	: No appearance

JUDGMENT

[Judgment of the Court was made by **S.S.SUNDAR, J.,**]

This appeal is preferred against the judgment and decree dated 12.06.2013 made in O.S.No.436 of 2011 passed by the Vth Additional District and Sessions Court, Coimbatore (Formely FTC III). It is a suit filed for partition.

2.This Court on hearing that the parties were willing to negotiate for a compromise among themselves referred the matter before the Tamil Nadu Mediation and Conciliation Centre attached to this Bench. After persuasion by the Mediator, the appellants and 1st respondent have arrived at a settlement, and therefore a Mediation Report along with the Memo of Compromise was filed by the Mediator. The Memorandum of Compromise dated 04.11.2022 detailing



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the terms of settlement before the Mediation Centre is also filed by the parties before this Court. The schedule of allotment is also attached with the Compromise Memo.

3.It is seen that respondents 2 to 17 are alienees of the properties which are also the subject matter of the suit for partition. The parties have expressly assured that this Memorandum of Compromise will not affect the rights of other respondents 2 to 17 in respect of the properties purchased by them. It is further stated that the alienation of other properties in favour of respondents 2 to 17 are binding on the other parties and that therefore the parties have no claim against other properties which have been alienated in favour of respondents 2 to 17. The respondents 2 to 17 have no claim in respect of properties which have now been divided among the appellants and the 1st respondent.

4.As per the Memo of Compromise dated 03.11.2022, the terms of the Joint Compromise Memo are as follows:-

*“(a)Party of the First Part hereby gives and allots
Plot Nos.40, 32, 48 and 49 to T.Dinesh Kumar and Plot
Nos.24, 55, 57 and 69 to T.Ragupathy of Parties of the*



Second Part, more fully described in the schedule hereunder.

(b)The Parties of the Second Part hereby accept the above plots .

(c)Party of the First Part hereby expressly undertakes to execute appropriate documentation ensuring title and possession of the above-mentioned plots to the Parties of the Second Part.

(d)In view of the above consideration both Parties settle their disputes by entering into this memorandum of compromise and pray that the appeal may be disposed of in terms of this Memorandum of Compromise.

(e)The Parties of the Second Part agree and admit that the properties are the self-acquired of the Party of the First Part.

(f)Both Parties hereby agree that this is the full and final settlement reached between the Parties.

(g)Both Parties agree to get a judgment and decree from the Hon'ble High Court and this Memorandum of Compromise shall form part of the judgment and decree.

(h)Both parties hereby expressly assure that this Memorandum of Compromise will not affect the rights of the other respondents namely 2 to 17 in their respective plots.

(i)Party of the First Part hereby assures that the Schedule Mentioned Properties viz. Plot



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Nos.32,40,48,49,24,55,57 & 69 are not already alienated to the respondents 2 to 17 and therefore, respondents 2 to 17 have no claims in them”.

5.The parties have also agreed that they have no further claim as against each other in the appeal in A.S.No.390 of 2014 and it is recorded that the dispute between them is amicably settled through the process of mediation. The Memorandum of Compromise dated 03.11.2022 signed by the parties namely the appellants and the 1st respondent in the presence of their respective counsels. The Memo, counter signed by their respective counsel shall form part of records since the parties have specifically agreed that the appellants and 1st respondent will have no claim in respect of properties purchased by respondents 2 to 17. The learned counsel appearing for other respondents has no objections for recording the compromise for the sake of convenience. The learned counsel appearing for other respondents submitted that the respondents 2 to 17 may not have any other claims in respect of the properties which had now been dealt with and divided among the appellants and the 1st respondent.

6.The Memo dated 10.11.2022 submitted by the learned counsel appearing for the 9th respondent is to the effect that he is unable to appear for



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Mr.N.Thirunavukarasu namely the 9th respondent in this appeal. Since the 9th respondent is now represented by another learned counsel by name Mr.N.Balakrishnan, the Memo of the 9th respondent to revoke the Vakalat standing in the name of Mr.C.R.Prasanan and T.Sezhian for the 9th respondent is accepted and their names are deleted from the cause list.

7.Based on the settlement arrived at between the parties which has been reduced in writing in the Joint Compromise Memo, this Court is inclined to dispose of the appeal in terms of the Joint Compromise Memo signed by the parties and the same with the schedule appended with the compromise shall form part of record.

8.Accordingly, this appeal stands **disposed of** in terms of the Joint Compromise Memo. No costs. Consequently connected miscellaneous petition is closed.

[SSSRJ] [NMJ]

08.11.2022

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To

- 1.The V Additional District and Sessions Judge,
(Formerly F.T.C.No.III) Coimbatore.
- 2.The Section Officer, VR Records,
High Court, Chennai.



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S.S.SUNDAR, J.,

AND

N.MALA, J.,

cda

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