



A.S(MD)No.6 of 2012

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.09.2022

CORAM:

THE HONOURABLE MRS.JUSTICE J. NISHA BANU

and

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

A.S(MD)No.6 of 2012

and

M.P(MD)No.1 of 2012

1. Supreme Supreme Corporation,
rep. by its Partner Brij Rathan Bagari,
No.33, Venkatasala Muthali Theru,
Chennai - 3.

2. R.R. Bagari (died)*

3. Gushal Bagari

4. Saraswathi Devi

5. Durga Daga

6. Giriraj Ratan Bagri

7. Brij Ratan Bagri

8. Sashi Lakhani

9. Nutan Bhattad

... Appellants



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(Appellants 4 to 9 are brought on record as legal heirs of the deceased second appellant vide Court order dated, 25.07.2022 made in CMP(MD) Nos.4957 to 4959 of 2022)

Vs.

- 1.Kathirasan
- 2.Ismail
- 3.Roshan Banu Lalitha
- 4.K.Kasilingam
- 5.K.Pal Selvi
- (Respondents 4 and 5 are impleaded as party respondent, vide order, dated 15.06.2012 made in M.P.(MD) No.2 of 2012)
6. Tamilselvi
- 7.M.Rajagani
- 8.V.Shanthi
- 9.K.Nehru Prakash

... Respondents

(Respondents 6 to 9 are brought on record as LRS. of the deceased 1st respondent vide Court order, dated 18.03.2022 made in C.M.P(MD) Nos. 2128 to 2131 of 2020)

(9th respondent is recognised as Power Agent of the respondents 6 to 8 vide Court order, dated 18.03.2022 made in C.M.P(MD) No.1888 of 2022)



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PRAYER: Appeal filed under Section 96 of Code of Civil Procedure, against the decree and judgment dated 20.08.2011 in O.S.No.43 of 2008 on the file of the Additional District Judge, (Fast Track Court No.I), Thoothukudi.

For Appellants : Mr.P.Jayaprakash Narayan

For R-1 : died

For R-2 : M/s.P.Sepana @ Sree

For R-3 : Mr.M.Saravanan

For R-4 to R-9 : Mr.R.Pon Karthikeyan

JUDGMENT

J.NISHA BANU, J.
and
N.ANAND VENKATESH, J.

The defendants 1 to 3 are the appellants in this appeal. The first respondent/plaintiff filed a suit seeking for the relief of declaring the execution of the sale deed, dated 15.07.2008 by defendants 1 to 4 in favour of the fifth defendant as null and void and for the relief of specific



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performance to execute the sale deed in favour of the plaintiff by virtue of sale agreement, dated 05.11.2007 and for the relief of permanent injunction.

2. The trial Court through judgment and decree, dated 20.08.2011 decreed the suit. Aggrieved by the same, defendants 1 to 3 filed the present appeal.

3. During the pendency of this appeal, the parties have entered into a compromise and a compromise memo signed by all the parties was filed before this Court.

4. The terms of compromise are extracted hereunder :

"1. The 6th to 9th respondents who are the legal heirs of deceased Kathiresan (1st respondent/plaintiff) have no objection in allowing the present appeal in A.S.(MD) no 6 of 2012 and setting aside the Judgment and decree dated 20.08.2011 made in O.S.No.43 of 2008 on the file of Additional District Judge, Fast Track Court No I, Tuticorin.



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2. The 6th to 9th respondents who are the legal heirs of Late Kathiresan have given up their claim over the suit property and they accept the title and possession of the subsequent purchasers namely, Thiru.Kasilingam and Tmt.Palseivi (4th and 5th respondents) over the suit property and they will not claim any right or title, whatsoever, in any manner in respect of the suit property.

3. The Appellants have no objection for the 9th respondent namely, K.Nehruprakash to withdraw the amount of Rs.53,00,000/- (Rupees Fifty Three Lakhs only) with accrued interests, deposited by his father late Kathiresan (1st respondent/plaintiff) on 10.10.2011 vide SBI challan No.147 towards balance sale consideration in the credit of O.S.No.43 of 2008, through lodgement schedule before the Additional District Judge, Fast Track Court No.I, Tuticorin. The deposit is lying in the State Bank of India, Beach Road Branch, Tuticorin.

4. In view of the compromise, the court fees paid by the appellants may be refunded to



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them. The appellants have no objection to refund the court fees in the name of 7th appellant namely, Brij Rathan Bagri."

5. In view of the above, this Appeal Suit is disposed of in terms of the compromise memo and the terms of compromise shall form part of the decree. Since the matter has been compromised between the parties, the appellants will be entitled for the refund of Court fees. No costs. Consequently, connected Miscellaneous Petition is closed.

(J.N.B.,J.) (N.A.V.,J.)
15.09.2022

Index:Yes/No
Internet:Yes/No
rm



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To:

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- 1.The Additional District Judge,
(Fast Track Court No.I),
Thoothukudi.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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