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O.S.A.Nos.251 & 252 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.06.2023

CORAM

THE HONOURABLE Mr.JUSTICE R.MAHADEVAN
AND
THE HONOURABLE Mr.JUSTICE MOHAMMED SHAFFIQ

O.S.A.Nos.251 & 252 of 2019

O.S.A.No.251 of 2019

P.Archana
D/o. Prabhakar Rao Pawar,
No.119, 11th Cross, Wilson Garden,
Bengaluru - 560027

.. Appellant

Vs.

1.M.K.Giri (died)
S/o. Late. C.H.Keshava Rao,
No.3, 5th Cross, H. Siddaiah Road,
Bengaluru - 560027.

2.M.K. Mala
W/o. Prabhakar Rao Pawar,
No.119, 11th Cross, Wilson Garden,
Bengaluru - 560027.

3.M.K. Kala
W/o. Koteswar Rao,
S-65, Plot No.3946,
Anna Nagar, Chennai 600 040.



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4.K. Manoj
S/o. Koteswar Rao, S-65, Plot No.3946,
Anna Nagar, Chennai 600 040,
represented by his Power of Attorney
M.K.Kala, W/o.Koteswar Rao.

5.M.K. Ravi
S/o. Late C.H.Keshava Rao, AH-82,
5th Cross Street, Shanthi Colony,
Anna Nagar, Chennai 600 040.

6.G.Girija Bai
W/o. Late M.K.Giri, No.3, 5th Cross Street,
H. Siddaiah Road, Bengaluru 560 027.

7.M.G.Vinodh
S/o.Late M.K.Giri, No.3, 5th Cross Street,
H. Siddaiah Road, Bengaluru 560 027.

8.Vikash Madras Giri
S/o.Late M.K.Giri, No.3, 5th Cross Street,
H. Siddaiah Road, Bengaluru 560 027.

.. Respondents

(R4 represented by his Power of Attorney M.K.Kala, W/o.Koteswar Rao vide order dated 30.03.2023.

Respondents 6 to 8 brought on record as the legal heirs of the deceased first respondent viz. M.K.Giri vide order dated 30.03.2023 in C.M.P.Nos.3868, 3856, 3865 & 3869 of 2023 in O.S.A.No.251 of 2019.)

Original Side Appeal filed under Clause 15 of the Letters Patent and Order XXXVI Rule 11 of the Original Side Rules r/w and Section 96 CPC, to set aside the judgment and decree dated 14.09.2018 passed by this Court



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in T.O.S.No.3 of 2009 and thereby, grant an order of Letters of Administration of the Will dated 15.03.1995 of K.Saroja Bai annexed to it as prayed for.

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M.K. Mala
W/o. Prabhakar Rao Pawar,
No.119, 11th Cross, Wilson Garden,
Bengaluru – 560027.

.. Appellant

Vs.

1.M.K. Ravi
S/o. Late C.H.Keshava Rao, AH-82,
5th Cross Street, Shanthi Colony,
Anna Nagar, Chennai 600 040.

2.M.K.Giri (died)
S/o. Late. C.H.Keshava Rao,
No.3, 5th Cross, H. Siddaiah Road, Bengaluru – 560027.

3.M.K. Kala
W/o. Koteswar Rao,
S-65, Plot No.3946,
Anna Nagar, Chennai 600 040.

4.G.Girija Bai
W/o. Late M.K.Giri, No.3, 5th Cross Street,
H. Siddaiah Road, Bengaluru 560 027.

5.M.G.Vinodh
S/o.Late M.K.Giri, No.3, 5th Cross Street,
H. Siddaiah Road, Bengaluru 560 027.



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6.Vikash Madras Giri
S/o.Late M.K.Giri, No.3, 5th Cross Street,
H. Siddaiah Road, Bengaluru 560 027.

.. Respondents

(Respondents 4 to 6 brought on record as the legal heirs of the deceased second respondent viz. M.K.Giri vide order dated 30.03.2023 in C.M.P.Nos.3875, 3879 & 3877 of 2023 in O.S.A.No.252 of 2019.)

Original Side Appeal filed under Clause 15 of the Letters Patent and Order XXXVI Rule 11 of the Original Side Rules r/w and Section 96 CPC, to set aside the judgment and preliminary decree dated 14.09.2018 passed by this Court in C.S.No.733 of 2008 and thereby, dismiss the suit.

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For Appellant : Mr.D.Yashwanth Rajan

For R5 : Mr.T.D.K.Govindarajan

For RR 6 to 8 : Mr.S.Ramesh Kumar

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For Appellant : Mr.D.Yashwanth Rajan

For R1 : Mr.T.D.K.Govindarajan

For RR 4 & 5 : Mr.S.Ramesh Kumar



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COMMON JUDGMENT

[Judgment of the Court was made by R.MAHADEVAN, J.]

When the matters were taken up for hearing, the learned counsel appearing for both the parties jointly submitted that with respect to the issues involved herein, settlement has been arrived at between the parties. In support of the same, they filed a joint memorandum of compromise dated 16.02.2023 signed by all the necessary parties. For better appreciation, the terms of the settlement are extracted below:

“

- a) *The Appellant in O.S.A.No.251 of 2019 (P.Archana) has this day paid the Respondent a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs Only) vide Cheque bearing No.000026 dated 16.02.2023 drawn on Kotak Mahindra Bank, Sudhama Nagar, Kengal Hanumanthaiah Road Branch, and the 5th respondent in O.S.A.No.251 of 2019 acknowledges receipt of the same, subject to realisation of the above-mentioned cheque.*
- b) *The 3rd Respondent in O.S.A.No.251 & 252 of 2023 (M.K.Kala) has this day paid the Respondent a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs Only) vide Cheque bearing No.068053 dated 16.02.2023 drawn on Punjab National Bank, Anna Nagar Branch, and the 5th Respondent in O.S.A.No.251 of 2019 acknowledges receipt of the same, subject to realisation of the above-mentioned cheque.*
- c) *The Appellant and the Respondents confirm that the*



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Will dated 15.03.1995 executed by Late Mrs.Saroja Bai, is true and genuine. The parties mutually agree that the Memorandum of Compromise may kindly be annexed and attached along with the order granting Letters of Administration as prayed for.

- d) The suit in C.S.No.733 of 2008 may be disposed of in terms of this Memorandum of Compromise.*
- e) The Parties hereby agree that each party will bear the respective costs.*
- f) The Appellant and the Respondents confirm that this Memorandum of Compromise records the entire matter in lis and confirm their full satisfaction thereof.”*

2. Therefore, both these original side appeals stand disposed of, in terms of the compromise entered into between the parties as referred to above. The joint memorandum of compromise dated 16.02.2023 shall form part of this order. No costs.

[R.M.D., J.] [M.S.Q., J.]
26.06.2023

Index: Yes / No
Speaking order/ Non-speaking order
Neutral Citation; Yes / No

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R.MAHADEVAN, J.
AND
MOHAMMED SHAFFIQ, J.

nsd

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