



CMA.No.2622 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

C.M.A No.2622 of 2013

and

M.P No.1 of 2013

Jegabar Nachiar

... Appellant

vs.

1.Mohidheen Abdul Qadir

2.Amma Sabu

3.Ahamed Jalaludheen

4.Mohammed Modheen

5.Nafeesa Ammal

6.Syed Yusuf

... Respondents

Prayer:- The Civil Miscellaneous Appeal is preferred under Order XLIII Rule 1 (U) of Civil Procedure Code, against the decree and judgment passed in A.S No.70 of 2011 on the file of the learned Subordinate Judge, Nagapattinam dated 28.09.2012 reversing the decretal order and order passed in I.A No.219 of 2008 in O.S No.61 of 2004 on the file of the learned District Munsif, Nagapattinam dated 10.01.2011.

For Appellant : Mr.V.Raghupathi

For Respondents : Mr.S.M.Hameed Mohideen for R1
R2, R3 & R6 - Given up
R4 & R5 - Died



JUDGMENT

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This appeal has been filed by the appellant/4th defendant challenging the judgment and decree passed in A.S No.70 of 2011 by the learned Subordinate Judge, Nagapattinam dated 28.09.2012 reversing the decreetal order and order passed in I.A No.219 of 2008 in O.S No.61 of 2004 on the file of the learned District Munsif, Nagapattinam dated 10.01.2011.

2. When the matter was taken up today, the learned counsel for the appellant and the 1st respondent submitted that the matter has been settled between the parties. Pursuant to the same, the appellant has filed a Memo dated 30.11.2022 which reads as follows:

'It is submitted that a compromise has been arrived at between the Appellant and contesting First Respondent. Two Respondents Nos.4 and 5 namely Mohammed Mohideen and Nafeesa Ammal respectively died and their legal heirs are not necessary parties and they are given up in this Appeal.

Likewise the other Respondents Nos.2, 3 and 6 namely Amma Sabu, Ahamed Jalaludeen and Syed Yusuf respectively are given up in this Appeal. The only contesting 1st respondent accepts that the appellant is



owner of the suit property which is the subject matter of this CMA. The contesting 1st respondent has also no objection for allowing the above CMA without costs against the 1st respondent alone. The 1st respondent has also filed a memo to that effect.

3. The 1st respondent/1st Plaintiff has also filed a Memo dated dated 24.11.2022 stating that he has no objection to allow this appeal and the same is extracted hereunder:

It is respectfully submitted that the first respondent above named prays that this Hon'ble Court may be pleased to allow the above CMA as far as I am concerned in the interest of justice".

4. Recording the aforesaid memos filed by both the parties, this Civil Miscellaneous Appeal is disposed of and the same shall form part of the order. No costs. Consequently, connected Miscellaneous Petition is closed.

06.03.2023

Index:Yes/No
Speaking/Non-speaking Order:Yes/No
uma

A.A.NAKKIRAN,J.



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4. Recording the aforesaid memos filed by both the parties, this Civil



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Miscellaneous Appeal is allowed insofar as the 1st respondent is concerned and this judgment will not bind insofar as the other respondents are concerned who have been given up by the appellant in the present appeal.