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A.S.No.230/2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 26-06-2023

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

A.S.No.230 of 2021

1.N.Shyamala
2.N.Venkatesh
3.N.Mahesh
4.N.Durga
5.N.Suresh

...

Appellants

-VS-

M/s.Suriyan Benefit Fund (Madras) Ltd....

Respondent

Appeal is filed under under Section 96 of the Civil Procedure Code, against the judgment and decree, dated 09.01.2020, passed in O.S.No.7453 of 2019, on the file of VI Additional City Civil Court, Chennai.

For Appellants : Mr.T.S.Baskaran

For Respondent : Mr.E.Senthilkumar

**JUDGMENT**(By *S.Vaidyanathan,J.*)

Learned counsel for the appellants and the respondent have filed a Joint

Memo of Compromise, dated 08.06.2023, entered into between the parties, duly signed by them and their counsel, requesting for disposing of this Appeal Suit in terms of the said Memo.

2. All the parties are present before the Court today and they agreed that they have arrived at a compromise and duly signed the Joint Memo of Compromise, which is scanned below :

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Appellate Jurisdiction)
AS.No.230 of 2021

1. N.Shyamala,
2. N.Venkatesh,
3. N.Mahesh,
4. N.Durga, *alias R. Durga Jaleelani* N. Durga ... Appellants
5. N.Suresh

-VS-

M/s.Suriyan Benefit Fund (Madras) Ltd. ... Respondent

SA. No. 546 of 2021

1. N.Shyamala,
2. N.Venkatesh,
3. N.Mahesh,
4. N.Durga, *alias R. Durga Jaleelani* N. Durga ... Appellants
5. N.Suresh

-VS-

1. M/s.Suriyan Benefit Fund (Madras) Ltd.
2. M/s.Varma and Company (Government Auctioneers and Estate Agents)
(R2 is given up)

SA.No. 547 of 2021

1. N.Shyamala,
2. N.Venkatesh,
3. N.Mahesh,
4. N.Durga, *alias R. Durga Jaleelani* N. Durga ... Appellants
5. N.Suresh

-VS-

M/s.Suriyan Benefit Fund (Madras) Ltd. ... Respondent

JOINT MEMO OF COMPROMISE

It is submitted that Late.Y.Narayanan, the husband of the 1st Appellant herein and the father of the Appellants 2 to 5, filed a suit in O.S.No. 13211/98, For SUBRIYAN BENEFIT FUND (MADRAS) LTD. *N. Shyamala* *N. Durga*
N. Venkatesh *N. Suresh*
N. Mahesh *8.6.23*
21.6.23



on the file of II Asst. City Civil Court, Chennai against the Respondent for a declaration that the auction notice dated 23.08.1996 is null and void. Later Late.Y.Narayanan filed another suit in O.S.No.5895/2000, on the file of II Asst. City Civil Court, Chennai against the Respondent for Redemption of Mortgage. Both the suits were decreed by way of a common Judgment and Decree dated 31.10.2003. Aggrieved, the Respondent preferred an appeal in AS.Nos.232 & 233 of 2019, on the file of VI Additional City Civil Court, Chennai. The Respondent also filed a suit in O.S.No.7453/2019, on the file of VI Additional City Civil Court, Chennai (Initially numbered as CS.No.222/04, on the file of High Court, Madras) for foreclosure of Mortgage.

The Appeals preferred by the Respondents in A.S.No. 232 & 233 of 2019 and the suit in O.S.No.7453 of 2019 were jointly taken for final hearing and a common Judgment and Decree dated 09.01.2020 was passed in the appeals and in the suit in favour of the Respondent. As per the common Judgment and Decree, the appeals in A.S.Nos.232 & 233 of 2019 were allowed and the suit in OS.No.7453/19 was decreed. Aggrieved by the common Judgment and Decree dated 09.01.2020, the Appellants preferred the above First Appeal as well as the Second Appeals. Pending the above Appeals, at the intervention of the Mediators, the dispute between the Appellants and Respondent are settled amicably on the following terms:

1. The Respondent has agreed to receive a sum of Rs.1,10,00,000/- (Rupees One Crore and Ten Lakhs only) from the Appellants in full and final settlement of all their claims against the Appellants herein and to discharge all the mortgages, subject to payment in full within three (3) months from this date, i.e. on or before 08.09.2023.

2. The Appellants hereby have agreed to pay the sum of Rs.1,10,00,000/- (Rupees One Crore and Ten Lakhs only) to the Respondent within a period of Three (3) months from the date, i.e. on or before 08.09.2023, of filing of this.

For SUBBIAH BENEFIT FUND (P) LTD

Asst. Manager.

1) N. Shyamala

2) N. V. S. S. S.

3) N. Mahesh
8/6/23

4) N. Dwiga

5) N. Suresh
8 6 23



For SUBIYAN BENEFIT FUND (MALAYSIA) LTD
Asst. Manager.

- 1) N. Shyamala
- 2) N. Venkatesh
- 3) N. Mahesh.
8/6/23
- 4) N. Durga
- 5) N. Suresh
8/6/23



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6. The Appellants on compliance of clause 1 of this Joint Memo of Compromise, the Respondent shall withdraw the final decree proceedings pending in the suit in OS.No.7453/19.

7. The parties hereby agree that they do not have any claim against each other except the claim stated in this Joint Memo of Compromise.

8. The 2nd Respondent Auctioneer in SA.No.546 of 2021 is a formal party and hence the second appeal against the 2nd Respondent is not pressed.

9. The parties hereby agree to bear their expenses.

It is therefore prayed that this Hon'ble Court may be pleased to pass a Judgment and Decree as per the terms of the Joint memo of compromise entered between the Appellants and the Respondent and order refund of the entire court fee paid in the above Appeals to the Appellants and pass appropriate orders and thus render Justice.

Dated at Chennai on this the 8th day of June 2023.

1. N. Shyamala
2. N. Venkatesh
3. N. Mohan
08/6/23.
4. N. Divya
8-6-23
5. N. Suresh

Appellants 1 to 5
For SUBHAN BENEFIT FUND (INDIA) LTD

Respondent

Aust. Manager

Counsel for the Appellants

Counsel for the Respondent



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3. Recording the said Joint Memo of Compromise, dated 08.06.2023, this Appeal Suit is disposed of. Joint Memo of Compromise shall form part of the decree.
No costs.

4. As it is reported that the connected Second Appeals have also been settled out of Court, it is open for the parties to produce a copy of this judgment and the Joint Memo of Compromise before the learned single Judge to pass appropriate orders.

5. In terms of Clause 4 of the Joint Memo of Compromise, the appellants are entitled to file a Memo before the Civil Court to withdraw the amount lying in Court Deposit together with interest accrued, if any, in which event, the amount shall be released to the appellants forthwith, preferably within 15 working days, subject to proof of deposit of the same.

6. Since the parties have arrived at a compromise and settled the matter out of Court, the appellants are entitled for refund of Court Fee as per Rules.

(S.V.N.,J.) (K.R.S.,J.)
26-06-2023

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A.S.No.259/2021

1.V.R.Section,
High Court,
Madras.

2.VI Additional City Civil Court,
Chennai.



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A.S.No.230/2021

S.VAIDYANATHAN, J.
AND
K.RAJASEKAR, J.

dixit

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