



A.S. No.70 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2023

CORAM:

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

and

THE HON'BLE MR. JUSTICE K. RAJASEKAR

A.S. No.70 of 2018 & C.M.P. Nos.1188 of 2018 & 18162 of 2022

M. Krishnamurthy

Appellant

v

1 M. Arul

2 Saibatcha

3 The Sub Registrar
Registration Department
Thiruvarur Town
Thiruvarur

Respondents

Appeal Suit filed under Section 96 of the Civil Procedure Code against the judgment and decree dated 21.07.2017 made in O.S. No.10 of 2014 on the file of the Principal District Court at Thiruvarur.

For appellant Mr. D. Veerasekaran

For R1 Mr. K.V. Babu
for Mr. S. Deepak

For R2 No appearance

For R3 Mr. R.V. Dinesh Rajkumar
Addl. Govt. Pleader



JUDGMENT

The judgment and decree dated 21.07.2017 passed in O.S. No.10 of 2014 on the file of the Principal District Court, Thiruvarur, is under assail in this appeal suit.

2 Today, when the matter was taken up for hearing, Mr.D.Veerasekaran, learned counsel for the appellant and Mr. K.V. Babu, learned counsel representing Mr. S. Deepak, learned counsel on record for the first respondent, submitted that the appellant and the first respondent have settled the dispute amicably betwixt themselves by entering into a joint memo of compromise, today. Hence, according to them, this appeal suit may be disposed of in terms of the said joint memo of compromise.

3 The joint memo of compromise dated 28.06.2023 has been produced before this Court, from a perusal of which, it is seen that that the same has been signed by the appellant and the first respondent and their respective counsel as well. It is also specifically stated in paragraph 9 of the said joint memo of compromise that the appellant has given up respondents 2 and 3.

4 The relevant portion of the joint memo of compromise is reproduced below:



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“1. Both the parties herein agree to compromise the entire dispute whereby the appellant shall pay a sum of Rs.35,00,000/- as one time settlement to the 1st respondent herein.

2 Out of the said sum of Rs.35,00,000/-, a sum of Rs.10,00,000/- has already been deposited by the appellant herein as per the order passed in C.M.P. No.1188 of 2018 dated 19.01.2018, which amount was deposited to the credit of the Original Suit O.S. No.10 of 2014 on the file of the Principal District Court, Thiruvavur, which sum, the 1st respondent shall withdraw the same with interest if any from the said Court for which the Appellant has no objection whatsoever.

3 With regard to the balance sum of Rs.25,00,000/-, a sum of Rs.10,00,000/- shall be paid by the appellant to the respondent herein within 10 days from the date of signing this compromise memo (i.e. on or before 08.07.2023) and the remaining amount of Rs.13,00,000 shall be paid within 60 days from the date of this compromise.

4 Besides that, both the appellant and the 1st respondent shall jointly take necessary steps to withdraw a sum of Rs.1,87,576/- paid by the 1st respondent as Court Fees in the Original Suit on the file of the Principal District Judge, Thiruvavur, in lieu of the compromise entered as herein.

5 Similarly, the appellant also seek necessary refund of the Court Fees paid in the present A.S.

6 In the event of the appellant failing to pay the agreed/compromised amount as above, the 1st respondent shall be entitled to interest as per the original judgment and decree and further shall be at liberty to file necessary execution petition to recover the said sum.

7 It is further agreed between the parties that on the payment of full amount agreed herein by the appellant, the 1st respondent agrees to withdraw or compound the criminal case pending against the appellant in C.C. No.317 of 2015 on the file of the Chief Judicial Magistrate Court, Tiruvavur as a result of this full and final settlement of compromise memo.

8 It is further agreed between the appellant and 1st respondent herein that in the event of the 1st respondent herein could not obtain refund of the Court Fee referred above, the same shall be compensated by the appellant.

9 Since there is no relief prayed as against the respondents 2 and 3 herein, the appellant has given up the respondents 2 and 3.

10 Both the appellant and the 1st respondent hereby agree that the compromise terms entered as above shall be strictly adhered without any default and further pray that this Hon'ble Court may be pleased to pass a judgment and



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decree in terms of the said compromise entered between the appellant and the 1st respondent as above and thus render justice.”

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In view of the above, nothing survives for adjudication in this appeal suit.

Accordingly, this appeal suit is disposed of in terms of the joint memo of compromise dated 28.06.2023 entered into between the appellant and the first respondent, which shall form part of the decree. Refund of Court fee shall be as permissible under the rules. No costs. Connected C.M.Ps. are closed.

(S.V.N., J.) (K.R.S., J.)
28.06.2023

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S. VAIDYANATHAN, J.
and
K. RAJASEKAR, J.

This appeal was disposed of by this Bench on 28.06.2023 by recording the joint compromise memo of even date and today, this appeal has been listed under the caption “for being mentioned”, at the instance of Mr. K.V. Babu, learned counsel representing Mr. S. Deepak, learned counsel on record for the first respondent.

2 It was submitted by Mr. K.V. Babu, learned counsel, that the amount of Rs.13,00,000/-, stated in paragraph 3 of the joint compromise memo dated 28.06.2023, which has been extracted in paragraph 4 of the order dated 28.06.2023, should read as Rs.15,00,000/-. He also submitted before us the amended copy of the joint compromise memo dated 26.09.2023. Paragraph 3 of the amended joint compromise memo reads as under:

“3 With regard to the balance sum of Rs.25,00,000/-, a sum of Rs.10,00,000/- shall be paid by the appellant to the respondent herein within 10 days from the date of signing this compromise memo (i.e. on or before 08.07.2023) and the remaining amount of Rs.15,00,000/- out of which Rs.13,00,000/- shall be paid by the appellant to the 1st respondent herein within 60 days from the date of this compromise and for the remaining sum of Rs.2,00,000/-, the 1st respondent is entitled to get the necessary refund of Court fee which is about for a sum of Rs.1,87,576/- paid on the file of the Hon'ble Principal District Court, Thiruvavarur, in O.S. No.10 of 2014.”



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and
K. RAJASEKAR, J.

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Taking into account the amended joint compromise memo dated 26.09.2023, the Registry is directed to substitute paragraph 3 of the joint compromise memo dated 28.06.2023, extracted in paragraph 4 of the order dated 28.06.2023, with paragraph 3 of the amended joint compromise memo extracted in the preceding paragraph, and issue fresh order copy.

(S.V.N., J.) (K.R.S., J.)
26.09.2023

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To

- 1 The Sub Registrar
Registration Department
Thiruvarur Town
Thiruvarur
- 2 The Principal District Court
Thiruvarur
- 3 The Record Keeper
V.R. Section
High Court of Madras
Chennai 600 104



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K. RAJASEKAR, J.

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28.06.2023