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O.P.No.170 of 2020, Cont.P.Nos.207 of 2021 & 702 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2023

Coram

THE HON'BLE MR JUSTICE N.SATHISH KUMAR

O.P.No.170 of 2020

&

O.A.No.490 of 2019

A.No.5635 of 2019

N.Purushothaman
S/o Mr.Natesan,
No.34, Dr.Murugesan Street,
Athur Vadapathi, Athur Post,
Chengalpattu Taluk,
Kancheepuram District.

..... Petitioner

-Versus-

E.Somasundaram,
S/o late Mr.Elumalai,
No.28-A, 2nd Street, Mallika Garden,
Mettumanagar,
Madhavaram, Chennai 600 060.

..... Respondents

Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, praying to appoint any competent person as the Sole Arbitrator to resolve the dispute between the petitioner and the respondent with regard to performance of contract as per the terms of the Agreement of Sale entered into between the petitioner and the respondent herein on 15.07.2018.



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For Petitioner : Mr.N.Ganesh

For Respondent : Mr.K.Chandrasekaran

ORDER

This original petition has been filed seeking appointment of Arbitrator to resolve the dispute arose between the petitioner and the respondent in respect of performance of agreement of sale entered into between the parties on 15.07.2018.

2. The said original petition was filed along with original application in O.A.No.490 of 2019 for interim injunction. This court on 29.04.2019 passed the following order:-

“7. That the respondent is hereby restrained from alienating or encumbering the property in question by selling it or creating a mortgage till 06.06.2019. Notice to the respondent returnable by then. Private Notice permitted. Post on 06.06.2019.”

The said order was periodically extended from time to time. While so, the petitioner has filed a contempt petition in Cont.P.No.207 of 2021 alleging that the respondents are liable to be punished for having violated the interim order of injunction of this court dated 29.04.2019 and periodically extended on 24.06.2019, 11.07.2019 and 29.07.2019. Pending said contempt petition and



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the original petition, the petitioner has come forward with another contempt petition in Cont.P.No.702 of 2022 alleging that the respondent is liable to be punished for having violated the interim order of injunction of this court dated 29.04.2019, extended on 24.06.2019, 11.07.2019, 29.07.2019 and 05.09.2019 and subsequently, extended until further orders in O.A.No.490 of 2019.

3. As the interim orders of injunction was originally passed by Justice R.Suresh Kumar, the contempt petitions were listed before him. It is seen from the records that pending original petition and contempt petitions, it was submitted by the learned counsel on either side before Justice R.Suresh Kumar that the parties had arrived at a settlement between themselves amicably and reduced the terms into writing. The compromise entered into between the parties dated 11.10.2023 was also filed in court. On 11.10.2023, Justice R.Suresh Kumar was pleased to direct the Registry to place the papers before the Hon'ble Chief Justice for orders as to the tagging of contempt petitions along with Original Petition No.170 of 2020 for combined disposal. Accordingly, the Hon'ble Chief Justice was pleased to direct the contempt petition to be listed along with original petition by order dated 19.10.2023. The order passed by Justice R.Suresh Kumar on 11.10.2023 reads as under:-



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“Pursuant to earlier orders, as the parties had decided to enter into compromise to give a quietus to the issue in the main OP itself and also to purchase peace in view of the present two contempt petitions, today when the contempt petitions are taken up for hearing, the learned respective counsel appearing for the parties have submitted that, all the parties in these two contempt petitions have entered into a compromise, which in fact has been reduced in writing under the heading 'Memo of Compromise entered into among the Parties', dated 11.10.2023.

2. The original memo has been filed before this Court where all the parties i.e., the petitioner in both the contempt petitions, respondents 1 and 2 in C.P.No.702 of 2022 and 2 nd respondent in C.P.No.207 of 2021 along with the respective counsel have signed in the memo .

3. The compromise memo entered under various terms which has been stated in the memo itself.

4. If this compromise memo is recorded, in my view, that will give quietus to the very Original Petition itself.

5. However, the OP is to be disposed only by the Hon'ble Judge as per Roster as I have been dealing with only these two contempt petitions. Assuming that, if the compromise memo is recorded in these contempt petitions, the OP which is pending still to be considered and decided.

6. In this context, the learned counsel appearing for the parties have made an appeal before this Court that, the matter can be referred for the purpose of taking the OP along with these contempt petitions for recording the compromise dated 11 th October, 2023 as mentioned above combinedly in all these petitions i.e., two Contempt Petitions as well as one OP, so that a complete quietus can be ensured, which enable the parties to proceed in accordance with the compromise memo.



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7. In view of the above, the Registry is directed to place these papers before the Hon'ble Chief Justice for orders as to whether the OP can be tagged along with these contempt petitions for combined disposal, in view of the facts and circumstances discussed herein above. The Registry may take urgent steps to do the needful as indicated above.

That is how, the contempt petitions have been listed before this court and separate orders will be passed in the contempt petition.

4. Today, the learned counsel on either side bringing to the notice of this court about the compromise entered into between the parties prayed that the original petition may be disposed of recording the compromise.

5. I have gone through the terms of compromise. The petitioner and the respondent were present. I have verified with the parties. They affirmed the compromise. I do not find any illegality or arbitrariness to doubt the compromise and the compromise reached between them is recorded. The terms of compromise read as follows:-



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MEMO OF COMPROMISE ENTERED INTO AMONG THE PARTIES

1. The Parties pray that this Memo of Compromise may be recorded in O.P.No.170/2020 and in the event of this Hon'ble Court recording this Memo of Compromise in the O.P, the Hon'ble Court may be pleased to close the Contempt Petitions and may be pleased to pass such orders as this Hon'ble Court deems fit.
2. The 2nd Respondent in the Contempt Petition No.207/2021 shall execute a Deed of Absolute Sale in regard to the red shaded portions in the sketch annexed herewith and marked as Plots 2,3,4 &5 of antotal extent of 5358 sq.ft. to and in favour of the petitioner. The said sale deed shall be executed by the 2nd Respondent in contempt Petition No.207/2021 as owner. The proposed sale deed shall inter alia contained the following terms:
 - (a) The consideration of the sale deeds shall be stated as Rs.70,00,000/- (Rupees Seventy Lakhs only)
 - (b) The 1st Respondent in the contempt petitions shall be the confirming party in the above proposed sale deeds
 - (c) There will be a further recital in the proposed sale deeds that out of the sum of Rs 1,40,00,000/- received by the 1st Respondent from the Petitioner on 15.07.2018, and a sum of Rs 70,00,000/- shall deemed to be the total consideration for the proposed sale deeds to be executed by the 2nd Respondent in contempt petition No.207/2021 in favour of the Petitioner. The said sum being the



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amount paid by the 2nd respondent in Contempt Petition No.207/2021 to the 1st respondent as morefully stated in the Additional Counter Affidavit dated 16.8.2023 filed by the 2nd respondent in Contempt No.207/2021. In other words, the payment made under the said Agreement in part between the petitioner and the 1st Respondent shall be the entire consideration is deemed to have been received by the 2nd Respondent in contempt Petition No.207/2021 from the Petitioner.

(d) The said sale deed shall contain inter alia the S.No.455/3B and T.S.Nos.22/5 and 38/2 and the respective boundaries

3. The Petitioner hereby relinquishes all his claim against the 1st Respondent including his right to specifically enforce the said Agreement as well as seeking relief either through Court or otherwise for the recovery of Rs 70,00,000/- (Rupees Seventy Lakhs) from the 1st Respondent in any manner whatsoever
4. The execution and registration of the said sale deed by the 2nd Respondent in favour of the Petitioner shall be in full satisfaction of all the claims by the Petitioner against all other Respondents.
5. The 2nd Respondent in contempt petition No.207/2021 shall not in any manner whatsoever execute any kind of deed in favour of any other third parties utilizing the Power of attorney deed dated 09.03.2021 registered as Doc.No. 1962/2021 SRO Madhavaram.



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6. The 1st Respondent is entitled to cancel the above-said Power of Attorney Deed by registering a cancellation deed of which no notice is required to the 2nd Respondent and the 2nd Respondent in contempt petition No.207/2021 has no objection for the said cancellation.
7. The 2nd Respondent in contempt petition No.207/2021 has no claim against the 1st Respondent in whatsoever manner and vice-versa.
8. The sale deed executed by the 2nd Respondent in Contempt Petition No.207/2021 in favour of the 2nd Respondent in Contempt Petition No.702/2022 dated 09.09.2021 registered as Doc.No.5858/2021,SRO, Madhavaram in regard to the Blue shaded portions in the sketch annexed herewith and marked as Plots 7 and 8 of an extent of 2438 sq.ft. is hereby confirmed by all the parties.
9. The sale deed executed by the 2nd Respondent in contempt petition No.207/2021 in favour of Isaac and Ms. Mary Princy Deepa dated 20.06.2022 registered as Doc.No.4720/2022,SRO, Madhavaram in regard to the Yellow shaded portion in the sketch annexed herewith and marked as 6 of an extent of 1189 sq.ft. is hereby confirmed by all the parties.
10. All the parties confirm that the property shaded in Green in the sketch annexed herewith and marked as plot 1 of an extent of 3087 sq.ft. is absolutely belongs to the 1st Respondent.



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11. The portion left unshaded in the sketch annexed herewith shall be the exclusive common private pathway for the Petitioner, the 1st Respondent, 2nd Respondent in contempt petition No.702/2022 and Isaac and Mary Princy Deepa.

12. The parent documents handed over by the 1st Respondent to the 2nd Respondent in contempt petition No.207/2021 is hereby being returned to the 1st Respondent by the 2nd Respondent namely

- (i) Document No.844 of 1955 executed in the name of Bhoopathy ammal - Original
- (ii) Patta No.3085 in the name of G.Elumalai,
- (iii) Document No.6239 of 2007 executed in the name of E.Somasundaram
- (iv) Patta No.5609/2007, 2720/SR/2929/2017 - Original
- (v) House Site Approved Plan - Original
- (vi) Planning Permit Paper Dated 30.6.2010 - Original

the 1st Respondent duly accepts and acknowledged. On such return, whenever the parent documents are required for the petitioner and or the Respondents and or the Isaac and Ms. Mary Princy Deepa either for registration or otherwise, the 1st Respondent shall produce the same before the concerned authority. One Full Set of Colour photocopies of the Documents hereby returned to the 1st respondent is handed over to the petitioner.



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13. The Original sale Deed dated 11.11.2020 executed by the 1st Respondent in favour of the 2nd respondent in Contempt Petition No.207/2021 and registered as Document No.5474/2020 in the office of the SRO, Madhavaram is hereby being handed over to the Petitioner by the 1st Respondent in Contempt Petition No.207/2021, which the petitioner duly accept and acknowledged, the said document whenever required by the Respondents and or the Isaac and Ms. Mary Princy Deepa either for registration or otherwise, the petitioner shall produce the same before the concerned authority. One colour photocopy of the document the petitioner handed over to the 2nd respondent in Contempt Petition No.702 /2022 for her future reference.

14. The parties shall bear their respective costs

15. It is irrevocably agreed between parties that apart from the above all parties have no further or future claim against each other and their heirs. Further the 1st Respondent shall not disturb the 2nd respondent by any manner in future.



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6. In the light of the above, the original petition stands disposed of in terms of the memo of compromise. The memo of compromise entered into between the petitioner and the respondent shall form part and parcel of this order. Since the Original Petition has been disposed of in terms of compromise entered into between the parties, the encumbrance reflected on the basis of the interim orders of this court 'not to register any document with regard to the property in question' is directed to be removed by the Sub Registrar, Madhavaram. Both parties shall bear their respective costs. Consequently, connected Original Application and Application are closed.

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Index : yes / no
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N.SATHISH KUMAR.J.,

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