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C.M.P. No. 10225 of 2023

in

O.S.A. No. 419 of 2018

R. MAHADEVAN, J.
AND
ABDUL QUDDHOSE, J.

(Order of the Court was made by R.Mahadevan, J.)

By judgment dated 31.01.2019, the original side appeal bearing no.419 of 2018 came to be disposed of, in terms of the memo of compromise entered into between the parties. While so, the second appellant has preferred this Civil Miscellaneous Petition to return all the original documents relating to the suit properties lying in the custody of this Court to him.

2.Heard the learned counsel for the petitioner / second appellant, who submitted that the mother of the second appellant died on 18.05.2020. As per the terms of memorandum of compromise, the petitioner and his mother/ appellants *vide* memo dated 02.11.2018, have deposited the entire original title deeds of item no.1 and item no.2 properties into this court till the item no.1 of the suit property is sold and also agreeing to hand over the original documents to the purchaser after such sale. It is also submitted that recently, one R.Kavitha, W/o.Rajkumar, has



come forward to purchase the item no.1 of the suit property and hence, it becomes necessary to hand over the original documents lying in the custody of this court to the said purchaser. It is also submitted that there cannot be any objection from any of the parties to release of the original documents lying in the custody of this court, for the purpose of registration and handing over the same to the purchaser.

3.Mr. R. Srinivas, learned counsel for the respondents submitted that he has already returned the case papers to his clients and hence, he is no longer counsel for the respondents. However, all the respondents have filed identical consent affidavits dated 24.04.2023 individually before this Court expressing no objection for return of all the original documents relating to the Suit properties to the petitioner herein. The relevant passage of the same reads as follows:

“5. Since a consensus was arrived at the amount of sale consideration by all parties to the above O.S.A., there is no objection for me to such release of the original documents lying in the custody of this Hon'ble Court to Mr.S.Venkatesan, the 2nd Appellant in the above O.S.A to be taken to the Sub Registrar office concerned on the date of the registration and hand over the same to the said Purchaser after registration of the sale deed. Individual Affidavits are being sworn by all the respondents including me in the above O.S.A to express consent for the release of original documents to the 2nd Appellant herein.

6. It was also agreed upon by the parties in the said Memorandum of Compromise that Original title deeds in respect of Item No.2 suit property will be handed over to one among the parties by Consensus, reserving a right for its inspection in case they sell their shares. Accordingly, consensus was arrived to the retention of original documents in respect of Item No.2 of suit property by Mr.S.Venkatesan, the 2nd appellant in the above O.S.A., to which I have no



objection and by signing this affidavit, I hereby express my consent for the same, since the 2nd Appellant also undertook to allow me or any prospective purchaser/s to inspect the same when I am in a need to dispose of my share in Item 2 suit property.

7. I am swearing to this affidavit in order to ascertain that I will abide by the terms of the Memorandum of Compromise dated 31.10.2019 and for the purpose of release of original documents to the 2nd Appellant and therefore the original documents in respect of the suit property may be handed over to Mr.S.Venkatesan, the 2nd Appellant by recording this affidavit and thus render justice.”

4.Considering the reasons stated in the affidavit filed in support of this petition coupled with the submissions made by the learned counsel for the petitioner and also no objection expressed by all the respondents, this Civil Miscellaneous Petition is ordered as prayed for. Registry is directed to return the original documents to the learned counsel for the petitioner, after following due procedure. The consent affidavits dated 24.04.2023 filed by all the respondents shall form part of this order.

[R.M.D., J.] [A.Q., J.]
17.10.2023

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**R. MAHADEVAN, J.
AND
ABDUL QUDDHOSE, J.**

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C.M.P. No. 10225 of 2023
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Dated: 17.10.2023