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C.S. No.77 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **05.09.2023**

CORAM:

**THE HONOURABLE Ms. JUSTICE R.N.MANJULA**

C.S. No.77 of 2018

1. K. Mohamed Saif  
Rep. by his Power of Attorney Agent  
H.Mohamed Ayaz

2. K.KhudsiaNasreen

3. AthiyaNasreenViqar  
Rep. by his Power of Attorney Agent  
H.Mohamed Ayaz

4. K.RafiaParveen ... Plaintiffs

Vs.

1. K.Sajjad Ahmed

2. Standard Chartered Bank (Formerly known as The Chartered Bank)  
Having branch at No.19, Rajaji Salai,  
Parrys, Chennai – 600 001. ... Defendants

(2<sup>nd</sup> defendant is impleaded as per Order dated 13.11.2018 in A.No.1789 of 2018)

Civil Suit is filed under Order IV Rule 1 of OS Rules r/w. Order VII  
Rule 1 of C.P.C. prays for judgment and decree:



a) declaring the unregistered Declaration of Cholavaram Nargis Begum dated 02.05.2003 recording the Oral gift by way of Hiba dated 30.04.2003 in favour of Mr.K.Mohammed Kamaluddin, as shamm, nominal and not binding on the Plaintiffs as being non est in law;

b) declaring the Settlement Deed dated 15.03.2017, registered as Doc.No.626 of 2017 in the SRO, Periamet, executed by Mr.K.Mohammed Kamaluddin in favour of the first defendant as sham, nominal and not binding on the plaintiffs as being non est in law;

c) declaring the Settlement deed dated 16.10.2014 and registered as Doc.No.4528 of 2014 in the SRO, Purasawakkam, executed by Mr.K.Mohammed Kamaluddin in favour of the first defendant as sham, nominal and not binding on the plaintiffs as being non est in law;

d) pass a preliminary decree for partition of the properties specified in schedule (Items A to E) by metes and bounds and to allot share to each of the plaintiffs in the said properties as per Islamic law, allotting 2/7 share in the properties to the first plaintiff and 1/7 share each to plaintiffs 2 to 4 and for separate possession of the same;

e) direct the first defendant to render accounts in respect of the monies / rents received from the Schedule A-E mentioned properties from July 2017;

f) declaring the Memorandum of deposit of title deeds dated 15.11.2017 which has been registered as Doc.No.3120 of 2017 in Book 1 of the SRO, Periamet executed by the first defendant in favour of second defendant herein as null and void and not binding on the plaintiffs.

g) Cost of this suit.



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For Plaintiffs : Mr.K.M.Aasim Shehzad  
For Defendants : Mr.Zaffarullah Khan for D1  
Mr.P.S.Sashank for D2

### **JUDGMENT**

This matter is listed today under the caption “For memo of compromise”.

2. The learned counsel for the plaintiffs submitted that the parties have arrived at a settlement between themselves and entered into a Joint Memorandum of Compromise.

3. The first and third plaintiffs are represented through their Power of Attorney H.Mohamed Ayaz. The second and fourth plaintiffs are present along with the first defendant. The second defendant is a bank in whose favour the first defendant have executed a mortgage in respect of 'A' schedule property.

4. As per the arrangement entered into between the parties, they have agreed to allow the 'A' schedule property to be retained in the share of the first defendant. The second defendant bank is not a party to the terms of compromise arrived between the parties and the interest of the bank is said to have been saved in view of the compromise. The learned counsel for the



plaintiff had made an endorsement to exonerate the second defendant from the suit. Accordingly, the second defendant has been exonerated.

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5. The rest of the parties have signed in the Joint Memorandum of Compromise by agreeing to the terms found therein. The parties were explained about the terms for which they have agreed. They submitted before the Court that they have affixed their signatures voluntarily in the terms of compromise after having fully read and accepted to its terms and conditions.

6. In view of the above, the Civil Suit is decreed as settled out of Court in terms of Memorandum of Compromise dated 01.09.2023. The Memorandum of Compromise dated 01.09.2023 shall form part of the decree. The plaintiffs are entitled to the refund of Court fee as per the Judgment of the Hon'ble Supreme Court in ***“The High Court of Judicature at Madras Vs. M.C.Subramanian and others”*** in ***S.L.P.Nos.3063 & 3064 of 2021*** dated 17.02.2021. No costs.

**05.09.2023**

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**R.N.MANJULA, J.,**

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