



S.A.No.688 of 2020
and CMP.No.14189 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.09.2023

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

S.A.No.688 of 2020
and
CMP.No.14189 of 2020

Indrani

.. Appellant

Vs.

1.Muthulakshmi
Saraswathi (Died)
2.S.Vasanthi
3.K.Muruges
4.K.Kumaresh
Ramathal (Died)
5.Rathinam
6.R.Dhanabhagyam
7.S.Sivasamy

.. Respondents

PRAYER : Second Appeal is filed under Section 100 of the Code of Civil Procedure, prayed to set aside the Judgement and Decree dated 18.03.2020 passed in A.S.No.70 of 2013, on the file of the III Additional District Judge, Coimbatore, reversing the judgment and decree dated 19.04.2013 passed in O.S.No.249 of 2011 on the file of the Subordinate Court, Pollachi.



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For Appellant : Mr.Niranjan Rajagopalan
for M/s.Lourdu Paul Maurya
For R1 :Mr.S.Mukunth, Senior Counsel
for M/s. Sarvabhauman Associates
For R2,3,5 to 7 : Mr.A.K.Rajaraman
for M/s.Gouri
For R4 : Refused

J U D G M E N T

This appeal has been filed to set aside the Judgement and Decree dated 18.03.2020 passed in A.S.No.70 of 2013, on the file of the III Additional District Judge, Coimbatore, reversing the judgment and decree dated 19.04.2013 passed in O.S.No.249 of 2011 on the file of the Subordinate Court, Pollachi.

2. Heard, Mr.Niranjan Rajagopalan, learned counsel for M/s.Lourdu Paul Maurya learned counsel for the appellant, Mr.S.Mukunth, learned Senior Counsel for M/s. Sarvabhauman Associates appearing for the first respondent and Mr.A.K.Rajaraman, learned counsel for M/s.Gouri, appearing for the respondents 2,3,5 to 7.



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3. Today, when the matter is taken up for hearing, the learned counsel for the respondents 2,3,5 to 7 submitted that the matter was settled between the appellant as well as the first respondent. They have informed this Court about the compromise arrived among them. The appellant and the first respondent who are the 1st plaintiff and 1st defendant in the suit were sisters and the remaining respondents are the father's sister (Aunty).

4. The learned counsel for the appellant submits that the original counsel Mr.Mouric, who is on record is unwell and not able to attend the case proceedings for a long time. However, the appellant who is aged about 67 years old widow lady appeared before this Court. Both are sisters and they are inclined to settle their property derived from their father. Accordingly both of them entered into a compromise. There is no objection as on date, by the learned counsel for the appellant.

5. Considering the age of both parties, are senior citizens, who want to settle the issue, even as per the terms of compromise they have entered with regard to undivided common share, for which they are entitled, as per the registered partition deed dated 10.08.2023, with regard to their legitimate



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share. The partition deed also produced before this Court, which was executed by the legal heirs of Subbaegounder, i.e., the appellant and the 1st plaintiff / daughters is perused. More over, the appellant is not inclined to proceed with the matter. Through the execution of the said partition deed she received property, in respect of the undivided share, which is also no way affected the legitimate right in the remaining shares.

6. Considering the submission made by the appellant and the first respondent the appeal is dismissed as settled out of Court. The terms of partition deed shall form part of the Judgment. However, liberty is granted to other shares to get remedy if any, as per manner known to law. Consequently, connected Miscellaneous petition is closed. No costs.

7. It is brought to the notice of this Court that, an error has been crept in, in paragraph No.1 in the earlier order dated 12.09.2023. The said paragraph No.1 is to be replaced as follows:

“When the matter is taken up for hearing, the appellant Indirani and the 1st respondent Muthulakshmi, who are the sisters, appeared in person before this Court and submitted that, in respect of their share



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derived from their father / Subbiyagowder, they entered into a registered partition with regard to their share in the entire suit property on 10.08.2023. Since their share has been declared in A.S.No.70 of 2013 on the file of the III Additional District Court, Coimbatore, also agreed between them, hence, the appellant Indirani is not inclined to proceed with the appeal against the 1st respondent Muthulakshmi and wants to withdraw the same."

8. Registry is directed to incorporate new paragraph No.1 quoted above and issue fresh order copy to the parties forthwith.

9. In all other respects, the order dated 12.09.2023 shall remain unaltered.

15.09.2023

rr

Index : Yes/No

Speaking Order: Yes/No

Neutral citation: Yes/No

To

- 1.The III Additional District Judge, Coimbatore.
2. The Subordinate Court, Pollachi.
- 3.The Section Officer, VR Section,
High Court of Madras.



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T.V.THAMILSELVI, J.

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