



S.A.No.473 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2023

CORAM

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

S.A.No.473 of 2022
and
C.M.P.No.9614 of 2022

S.Rajendra Boopathy

... Appellant

Vs.

1.Rajaram @Sheenu
2.Muralidharan
3.Deivendran

... Respondents

PRAYER: Second Appeal filed under Section 100 of C.P.C., against the judgement and decree passed in A.S.No.10 of 2017 dated 27.08.2021 on the file of the Sub-Judge, Tambaram in reversing the well-considered judgement and decree made in O.S.No.98 of 2014 dated 24.01.2017 on the file of the District Munsif at Tambaram.

For Appellant : Mr.R.S.Maitreya



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JUDGEMENT

The appellant, who is the plaintiff had filed a suit against the respondents herein in O.S.No.98 of 2014 on the file of the District Munsif Court, Tambaram seeking for permanent injunction restraining the defendants, their men, agents, servants and assignees etc from interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property in No.177, Madambackam Village, Tambaram Taluk, Kancheepuram District comprised in part of S.No.34/1 marked in Plot No.26/1 in the enclosed layout measuring an extent of 2410 Sq.ft.

2. The Trial Court had allowed the suit in favour of the plaintiff by way of judgement and decree dated 24.01.2017. Challenging the same, the respondents/defendants had preferred the first appeal in A.S.No.10 of 2017 before the Sub-Ordinate Court, Tambaram. The 1st appellate Court had allowed the appeal by way of judgment and decree dated 27.08.2021 and consequently the suit was dismissed reversing the decree and judgement of the Trial Court. Against which, the appellant/plaintiff had preferred the present Second Appeal before this Court and the second appeal was admitted



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on the following substantial questions of law :-

i) Whether the lower appellate Court is right in holding that the suit is bad for non-joinder of necessary parties when there was no resistance from Dhasaratha Naidu?

ii) Whether the lower appellate Court is right in non-suiting the plaintiff holding that the plaintiff has to seek for declaration of his title when absolutely there is no cloud over the title of the plaintiff in the suit schedule property?

iii) Whether the Lower Appellate Court is right in not applying the principle of 'possession follows title' in the case on hand?

iv) Whether the Lower Appellate Court is right in dismissing the suit of the plaintiff when he has filed all the documents to prove his title and possession and on the contrary, when the defendants had filed none, which fundamentally against Sections 101 and 102 of the Indian Evidence act, 1872?

3. While the appeal was pending, the parties herein have arrived at a compromise pursuant to which the dispute between them has been settled



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and the parties have also filed a memo of compromise before this Court today.

4.The learned counsel for the appellant would submit that the appellant/plaintiff and the respondents/defendants have compromised the matter and they have decided to resolve all the disputes amicably and have also filed a memo of compromise. The learned counsel would seek based on the terms of the memo of compromise, the second appeal may be allowed and the decree may be passed in terms of the memo of compromise.

5. The parties are present before this Court. The respondents/defendants are identified by Mr.R.S.Maitreya, learned counsel for the appellant/plaintiff.

6. This Court enquired the parties and they have informed that they have resolved the dispute among themselves and they have also entered into a settlement pursuant to which, they have filed a memo of compromise. Hence, they seek that the second appeal may be allowed based on the terms of the memo of compromise.



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7. Heard the learned counsels, parties and perused the memo of compromise filed by the appellant/plaintiff.

8. The relevant portion of the memo of compromise is extracted hereunder:-

“4. At this stage, without going into the merits of the case, both the appellant and the respondents have mutually resolved all the disputes between them. Both the parties are ready and willing to settle the above case amicably on the following terms:-

a) The appellant submits that he intends to sell the property to a third party, namely, Padmini Sundaram, Wife of Sundaram, residing at No.29A, Vembuli Amman Kovil, 4th cross street, Gowrivakkam, Sembakkam, Selaiyur, Kancheepuram District. The Respondents have agreed to be the witnesses in the sale deed to be executed by the appellant.

b) The possession of the property will be handed over to the purchaser by the appellant at the time of execution of sale deed. The respondents also agree for the same.

c) All the disputes between both the parties in the above Second Appeal pending before this Hon'ble Court are resolved in the above terms and all the disputes,



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including criminal complaints, if any, pertaining to the suit schedule property. Both the parties declare that the disputes are resolved between them on their free will and volition. Therefore, there is no more dispute/claim/compromise between them regarding the same.

d) All the conditions of the compromise have been fully known to both the parties and they have carefully examined and considered the same and they have given consent for the compromise, there is no coercion or undue influence for the same.

Hence, the appellant and respondents most humbly pray that this Hon'ble Court may be pleased to record this memo of compromise and pass the decree in the above terms in S.A.No.473 of 2022”.

9. Thus, the second appeal stands disposed of based on the terms of the memo of compromise. The memo of compromise shall form part of the decree. Consequently, connected miscellaneous petition is closed.

25.09.2023

Index : Yes / No
Speaking / Non-speaking



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Neutral Citation : Yes / No
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To

1. The Sub-Court, Tambaram
2. The District Munsif at Tambaram.
3. The Section Officer, VR Section, High Court of Madras.



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