



A.S.(MD)No.62 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

A.S.(MD)No.62 of 2020

and

C.M.P.(MD)No.2313 of 2020

Velusamy (died)

1.K.Amudha

2.G.Shanthi

3.Vijayalakshmi

4.Thilagavathi

... Appellants / Plaintiffs 2 to 5

Vs.

Subbaiah (died)

1.Nallaiah

2.Ramachandran

3.Kanagaraj

... Respondents / Defendants 2 to 4

PRAYER: Appeal Suit filed under Section 96 r/w Order 41 Rule 1 & 2 of Civil Procedure Code, praying this Court to set aside the decree and judgment passed in O.S.No.59 of 2012, dated 13.09.2019 on the file of the learned Principal District Judge, Dindigul.



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For Appellants : Ms.V.Janakidevi

For Respondents : Mr.D.Venkatesh

JUDGMENT

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

This Appeal Suit is filed against the judgment and decree made in O.S.No.59 of 2012, dated 13.09.2019 on the file of the learned Principal District Judge, Dindigul.

2.During the pendency of this Appeal Suit, the parties since expressed their willingness to compromise themselves and to come forward a negotiated settlement, it had been referred to mediation and in the mediation both the parties had come forward to settle the issue amicably. Therefore, a settlement / agreement had been reached between both sides, followed by a joint compromise memo had also been prepared and signed by both the parties.

3.According to the said compromise memo, the first schedule properties would be allotted to the appellants / plaintiffs 2 to 5, who are the legal heirs of the 1st plaintiff. The second schedule properties would be



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allotted to the respondents / defendants 2 to 4, who are the legal heirs of the 1st defendant. The parties signed in the compromise memo. Insofar as the property in Patta No.1085 for Survey No.91/1E1, Kallipatti Majara, Chettinaickenpatti Village, Dindigul District and Taluk is concerned, it has been converted into approved plots and the parties had already jointly sold some plots. Out of the unsold plots, the appellants will get Plot No.15 measuring into 2400 sq.ft., and the respondents will get the existing house in Kallipatti Post, Chettinayakkanpatti Village, Dindigul District.

4.These properties are not form part of either the first schedule or the second schedule. That is how the parties have agreed to settle the issue by having peaceful partition and the properties were also accordingly allotted. Therefore, they seek for judgment and decree in this Appeal Suit even by way of final decree.

5.The parties on both sides ie., the four legal heirs signed on behalf of the 1st plaintiff and the three legal heirs signed on behalf of the 1st defendant appeared before this Court and confirmed the said agreement and settlement.



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6.In view of the same, this Appeal Suit is disposed of with the following judgment:-

(i)the joint compromise memo entered into between the appellants and the respondents dated 13.03.2023 has been accepted by this Court and accordingly, the first schedule property is allotted to the appellants side. The second schedule property is allotted to the respondents and insofar as the two other properties mentioned herein above is concerned, those properties also according to the compromise memo had been allotted to the parties.

(ii)Since this allotment had been made pursuant to the compromise memo by way of settlement between the parties, based on which, this judgment and final decree is passed.

(iii)The appellants are entitled to get back the Court fee in accordance with law.



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7.The Registry is directed to issue final decree in terms of the aforestated compromise recorded in this judgment. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.K., J.) & (K.K.R.K, J.)

27.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

MYR

To

1.The Principal District Judge,
Dindigul.

2.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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