



S.A(MD)No.402 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE G. CHANDRASEKHARAN

S.A(MD)No.402 of 2021
and
C.M.P(MD) No.5268 of 2021
and
C.M.P(MD) No.16081 of 2023

1.M.Kuppusamy@Kannisamy

2.K.Muthulakshmi

3.P.Kalimuthu

4.K.Tamil Selvi

...Appellants

-Vs-

1.K.Natchimuthu

2.P.Kaliyammal

N.Karuppasamy Gounder (died)

3.Thirulogachandran

4.K.Ramalingam

5.P.Thangammal

1/8



S.A(MD)No.402 of 2021

6.P.Backiyam

7.P.Arulmozhi

... Respondents

PRAYER: Second Appeal is filed under Section 100 of the Code of Civil Procedure, to set aside the judgment and decree passed in A.S.No.69 of 2017 dated 01.07.2020 by the Principal Sub Court, Palani, confirming the judgment and decree made in O.S.No.182 of 2007 dated 24.08.2017 by the District Munsif Court, Oddanchathiram.

For Appellants : Mr.D.Venkatesh

For Respondents : Mr.H.Lakshmi Shankar

JUDGMENT

This second appeal is filed challenging the Judgments and decrees passed in A.S No.69 of 2017 on the file of the Principal Sub Court, Palani and in O.S.No. 182 of 2007 on the file of the District Munsif Court, Oddanchathiram.

2. The first respondent filed the suit for declaration of title in respect of the



S.A(MD)No.402 of 2021

suit properties and also for recovery of possession. The said suit was decreed. Against the said Judgment, appeal in A.S.No. 69 of 2017 was filed and that was also dismissed. Challenging the said Judgments and decrees passed by the Courts below, the defendant 8 to 7 filed the present second appeal.

3. During the pendency of this second appeal, the appellants and first respondent entered into a compromise and the compromise was recorded in the form of the memo. The respondents 2 to 7 remained *ex parte* before the Courts below. The terms of compromise read as follows:-

a) as against the decree in favour of the first respondent/plaintiff in respect of Survey No.425/1A1 for 36 cent the first respondent/plaintiff has agreed to take only 27 cents (0.10.92 hectares). As regards Survey No.426/4A1 1st respondent/plaintiff given up his claim as per the decree. As regards Survey No.425/1A3 as against the decree for 4.5 cents, the plaintiff/1st respondent will take the 8.65 cents (0.03.50 Hectares). In addition to that the appellants/defendants 8 to 11 agreed that the plaintiff/1st respondent shall be entitled to 5.31 cents (0.02.15 Hectares) Survey No.432/3A3.



S.A(MD)No.402 of 2021

WEB COPY

b) The 1st respondent/plaintiff is therefore being given/allotted an extent 40.96 cents (0.16.57 Hectares) as against the decree granted for 48.5 cents.

c) The property that is now belonging to the plaintiff/1st respondent as per the readjustment is shown in green color in the sketch appended to joint memo of compromise.

d) The first respondent/plaintiff confirms that he is fully satisfied with this readjustment and the appellants/defendants 8 to 11 confirmed that the plaintiff/first respondent has taken possession of property as per this compromise and he is in possession and enjoyment of the same and they have no objection for mutation of patta and effecting subdivisions in favour of 1st respondent/plaintiff as per this compromise.

e) Likewise the first respondent/plaintiff has no objection for the mutation of patta and subdivisions of yellow washed portions comprised in Survey No.426/4A1 measuring 82.78 cents (0.33.50 Hectares) and 425/1A1 measuring 100.82 cents (0.40.81 Hectares) in favour of the appellants/defendants 8 to 11.



S.A(MD)No.402 of 2021

WEB COPY

f) The property that is now belonging to the appellants/defendants 8 to 11 as per the readjustment is shown in yellow color in the sketch appended to joint memo of compromise.

g) In Survey No.425/1A1 there is an area shortage of 9.31 cents (0.03.77 Hectares). As per title documents of both parties the extent of the land in Survey No.425/1A1 is 1 acre 37 cents. But as of now the available extent on the ground is only 1 acre 28 cents. As such both parties agreed to divide the same in the following manner i.e., the appellants/defendants 8 to 11 are allotted 1 acre 1 cents (0.40.81 Hectares) and 1st respondent/plaintiff is allotted 0.27 cents (0.10.92 Hectares). Both the parties agreed to mutate patta as per their respective shares. In future both parties will not make any claim over the extent off 9.31 cents (0.03.77 Hectares) which is actually not available on the ground.

4. The appellants and the first respondent were present before this Court on 23.11.2023 and during enquiry about the compromise reached between them, they confirmed the terms of compromise. As directed by this Court, they have filed a



S.A(MD)No.402 of 2021

petition to record the compromise in C.M.P(MD)No.16081 of 2023 under Order 23, Rule 3 of the Code of Civil Procedure.

5. In view of the compromise reached between the parties, the compromise petition in C.M.A(MD)No.16081 of 2023 is allowed on the aforesaid terms reached between them in the compromise memo. Accordingly, this Second Appeal is disposed of on the terms of the compromise detailed above. The compromise memo filed along with the sketch, shall form part of the decree. No costs. Consequently, connected miscellaneous petition is closed.

28.11.2023

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

1.The Principal Subordinate Judge,
Palani.

2.The District Munsif,
Oddanchathiram.

6/8



S.A(MD)No.402 of 2021

WEB COPY

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



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S.A(MD)No.402 of 2021

G. CHANDRASEKHARAN, J.

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