



A.S.(MD)No.10 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 19.01.2023

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THE HONOURABLE MRS.JUSTICE N.MALA

A.S.(MD)No.10 of 2014

and

M.P(MD)No.1 of 2014

1.M.Umayal Achi (Died)

...1st Defendant/Appellant

2.N.K.Umayal

3.M.Subbiah

4.M.Meenakshi

5.M.Lakshmi

6.M.Kulanthian

... Appellants

(Appellants 2 to 6 are brought on record as LRS of the deceased sole appellant vide Court order dated 05.01.2023 in CMP(MD)Nos.51, 53 and 54 of 2023)

Vs

1.Meenakshi Achi @ Saraswathi Achi

2.C.Azhagammai Achi @ Rajambal

3.S.Unnamalai Achi

4.P.L.Azhagammai Achi

...Plaintiffs/

Respondents 1 to 4

5.Kuppal Achi @ Kamalambal Achi

6.KT.RM.Kathiresan Chettiar

7.KT.RM.Lakshmanan Chettiar

...Defendants 2 to 4/

Respondents 5 to 7

PRAYER: Appeal Suit filed under Section 96 of Code of Civil Procedure, to set aside the judgment and decree dated 30.08.2013 passed in O.S.No.41 of 2008 on the file of the District Judge, Sivagangai.



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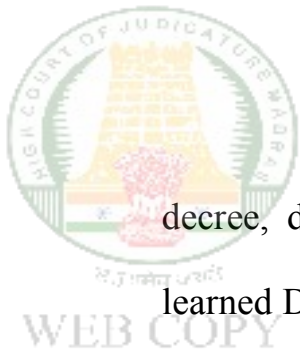
For Appellants : Mr.C.Mahadevan
For R1 to R4 : Mr.C.Jeya Prakash

JUDGMENT

The appeal is filed against the judgment and decree of the Trial Court passed in O.S.No.41 of 2008 declaring plaintiff's' 1/5th share in the suit property which was purchased under registered sale deed 21.01.1974. The preliminary decree further directed that the plaintiffs and the first defendant will have to work out their remedy in the final decree proceedings if the properties are indivisible in nature.

2. The first defendant/appellant aggrieved by the judgment and decree of the trial Court preferred the above appeal. Pending the appeal as the first defendant/appellant died, his legal heirs were impleaded and came on record as appellants 2 to 6.

3. Both the learned counsels filed a memo under Order XXIII of CPC stating that the matter has been settled between the parties. As per the memo, the parties have agreed to enjoy the suit properties as it is and further, the respondents 1 to 4/plaintiffs in the suit have agreed to have preliminary



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decree, dated 30.08.2013 passed in O.S.No.41 of 2008 on the file of the learned District Judge, Sivagangai set aside by recording that the prayer in the suit are not pressed.

4. The respondents 1 to 4/plaintiffs are present before this Court and have acknowledged the signature in the memo of compromise. The third appellant is also present before this Court and he has acknowledged the signature in the memo of compromise and confirmed the same.

5. The appeal is therefore disposed of by recording the memo of compromise. There shall be no order as to costs. The compromise memo shall form part and parcel of the decree. The defendants 2 to 4, who are respondents 5 to 7 in the appeal remained ex-parte before the Court below and no decree has been passed in their favour or against them. Therefore, they are not necessary for the compromise memo. Consequently, connected miscellaneous petition is closed.

19.01.2023

Index : Yes / No
Internet : Yes / No
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To

- 1.The District Judge, Sivagangai.
- 2.The Record Keeper, Vernacular Records,
Madurai Bench of Madras High Court, Madurai.



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N.MALA, J

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