



S.A.No.1178 of 2006

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2024

CORAM

THE HON'BLE MR. JUSTICE **G.ARUL MURUGAN**

S.A.No.1178 of 2006

1.Veerabadiran (Deceased)
2.Elumalai
3.Thirumalai (Minor)
Rep by father & Guardian
First Appellant
4.Sangeetha
(Appellants 3 & 4 recorded as legal heirs
of the deceased 1st Appellant vide Court
dated 28.08.2017 made in SA.No.1178/2006
by SBJ. Memo filed to that effect)

... Appellants

Vs.

R.Krishnamoorthy
... Respondent

PRAYER: Second Appeal filed under Section 100 of C.P.C., to set aside the decree and judgment dated 28.02.2006 and made in AS.No.115 of 2005 on the file of the Sub-ordinate Judge, Gingee confirming the decree and judgment dated 31.03.2005 and made in OS.No.336 of 1999 on the file of the District Munsif Judge, Gingee.



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For Appellants : Mr.B.Jawahar

For Respondent : Mr.A.Agilesh

JUDGMENT

The appellants herein are plaintiffs 1, 3 to 5, who have filed the suit in OS.No.336 of 1999 on the file of Principle District Munsif, Gingee, for a declaration declaring that the “A” schedule properties belongs to 1st plaintiff and the “B” schedule properties belongs to the 2nd plaintiff and for consequential relief of injunction.

2. The suit in OS.No.336 of 1999 was dismissed by the Trial Court by its judgment and decree dated 31.03.2005 and the plaintiffs preferred an appeal in A.S.No.115 of 2005 on the file of Sub-ordinate Judge, Chengam and the same was also dismissed on 28.02.2006. Aggrieved by the same, the present second appeal is filed.

3. Earlier when the matter was listed on 11.08.2023, a joint memorandum of compromise was entered into between the parties before this Court and in view of further modifications to be made, this Court by order dated 11.08.2023 recorded the same and also allowed the parties to file



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necessary memo.

4. Today, when the matter is taken up for hearing the learned counsel on either side submitted that they are withdrawing the earlier compromise memo filed between them and the parties have arrived at fresh settlement.

5. The learned counsel for the appellants and the respondent submits that pending second appeal, the parties have arrived at a compromise and have executed a joint memo of compromise on 09.01.2024. As per the compromise arrived at between them, the appellants herein will be entitled to suit 'A' schedule property and the respondent herein will be entitled to the suit B schedule property. It is also submitted that the respondent herein along with his legal heirs has agreed to execute a separate release / partition deed in favour of the appellants herein in respect of A schedule property which has now been allotted to the appellants. It is further agreed that the appellants have filed a separate suit in OS.No.223 of 2018 on the file of the Principal District Munsif, Chengam, claiming partition and separate possession of the suit properties which is described in 'C' schedule of this compromise memo and the same is also unequivocally allotted to the respondent herein. The appellant has further undertaken to withdraw the suit in OS.No.223 of 2018.



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6. The joint compromise memo dated 09.01.2024 signed by both the appellants and the respondent and duly attested by their respective counsel is filed. The parties are also present before this Court.

7. In view of the same, this Second Appeal is disposed of in terms of joint memo of compromise filed and the joint memo of compromise dated 09.01.2024 shall form part and parcel of the decree. There shall be no order as to costs.

09.01.2024

drl

Index : Yes / No

Speaking / Non-speaking

Neutral Citation : Yes / No

To

1.The Sub-ordinate Judge, Gingee

2.The District Munsif Judge, Gingee.



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G.ARUL MURUGAN.,J.

drl

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