



S.A.No.1383 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2024

CORAM

THE HONOURABLE Mr. JUSTICE **G.ARUL MURUGAN**

S.A.No.1383 of 2010

1.Ganasundari
2.C.Thanikachalam
3.C.Viswanathan ... Appellants

-Vs-

1.V.Sakuntala
2.K.Rajakumari
3.G.Sundari
4.B.Suriyakumari (died)
5.M.Chandrika
6.D.Balaiah
7.B.Divviya Pradha ... Respondents

(R4 died, R6 to R7 were brought on record as
legal heirs of the deceased R4 vide order dated 09.01.2024
in C.M.P.No.29529 of 2023)

Prayer:- Second Appeal filed under Section 100 of the Civil Procedure
Code against the judgment and decree dated 23.11.2009 in A.S.No.542



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of 2007 passed by the learned III Additional City Civil Judge, Chennai, confirming the judgment and decree dated 16.03.2007 in O.S.No.1680 of 2004 passed by the learned XV Assistant City Civil Judge, Chennai.

For appellants : Mr.Sundar Narayan
For respondents 1 & 3 : Mr.O.Padma Prakash
For respondent 2 : Mr.V.Manisekaran
For respondent 4 : died
For respondents 5 to 7 : Mr.R.Thiyagarajan

J U D G M E N T

The respondents 1, 4 & 6 are before this Court in this Second Appeal. This Second Appeal has been filed as against judgment and decree dated 23.11.2009 in A.S.No.542 of 2007 passed by the 3rd Additional City Civil Judge, Chennai, confirming judgment and decree dated 16.03.2007 in O.S.No.1680 of 2004 passed by the XV Assistant City Civil Judge, Chennai.

2. The suit, which was filed for partition by 4th & 5th



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respondents/plaintiffs, was decreed by the Trial Court and preliminary decree was passed on 16.03.2007. An appeal filed in A.S.No.542 of 2007 was dismissed, confirming the preliminary decree passed by the Trial Court. Aggrieved by the same, the defendants 1, 4 & 6 are before this Court on this Second Appeal. Pending the Second Appeal, first appellant and 4th respondent died.

3. The learned counsel appearing for the appellants, respondents 1 to 3 & respondents 5 to 7 submit that during pendency of this Second Appeal, the parties have compromised the issue and pursuant to the compromise, they have entered into a memo of compromise dated 31.01.2024, whereby the parties agreed that the preliminary decree to be confirmed.

4. The appellants 2 & 3, respondents 1 to 3, 5 to 7 have signed the compromise memo along with the counsel on record. The appellants 2 & 3, respondents 3 & 5 to 7 are present before this Court and the



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respondents 1 and 2 are stated to be admitted in hospital and they are not able to be present before this Court.

5. As per Clause 9 of the memo of compromise filed by the parties, both the appellants and the respondents submit that a final decree may be passed in terms of memo of compromise, entered into between the parties.

6. This Court has given its anxious consideration on the submissions made on both sides.

7. Since the issue has been compromised between the parties and memo of compromise has been entered between the parties, this Second Appeal is ordered in terms of memo of compromise dated 31.01.2024. The final decree in terms of the memo of compromise dated 31.01.2024 is passed and the memo of compromise shall form a part of the final decree.



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8. In view of the final decree passed, the parties are directed to pay respective Court fees in respect of the share allotted in their favour.

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Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
apd

To

1. The III Additional City Civil Judge, Chennai.
2. The XV Assistant City Civil Judge, Chennai.
3. The Section Officer, V.R. Section, High Court, Madras.



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G.ARUL MURUGAN, J.

apd

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