



CRP.No.1149 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

C.R.P.No.1149 of 2024 and C.M.P.No.5927 of 2024

R.Nandagopal

.. Petitioner

Vs.

1.M.R.Gurumurthy

2.Abhisheka Kattalai attached to

A/M Thiyagaraja Swamy Thirukoil

Rep by its Hereditary Trustee Velakurchy Aathina Kartha

Thirupugaloore

.. Respondents

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the docket order dated 01.02.2024 passed by the Executing Court in EP.No.82/2020 in O.S.No.24/2019 on the file of Principal District Court, Tiruvarur.

For Petitioner : Mr.J.Nandagopal

For Respondents : Mr.T.S.Baskaran for R1

Mr.A.R.Nixan for R2



CRP.No.1149 of 2024

ORDER

WEB COPY

This petition has been filed as against the docket order dated 01.02.2024 passed by the Executing Court in EP.No.82/2020 in O.S.No.24/2019 on the file of Principal District Court, Tiruvarur.

2. The petitioner and the 1st respondent are brothers. They had constructed a building on the land belonging to the 2nd respondent. In this building, the petitioner and the 1st respondent were running two partnership firms, namely, M.R.Sons. and Mura Readymades.

3. While so, due to a dispute between the plaintiff and the 1st respondent, the 1st respondent had filed three suits as follows:-

(i). O.S.No.23 of 2019 has been filed for the dissolution of the partnership firm, namely, M.R.Sons.

(ii). O.S.No.22 of 2019 has been filed for the dissolution of the partnership firm, namely, Mura Readymades.

(iii) O.S.No.24 of 2019 has been filed for the partition of the property in 7B and 7C VRR Road, Vijayapuram, Thiruvarur



CRP.No.1149 of 2024

WEB COPY

4. During the pendency of the suits, a compromise was arrived between the petitioner and the 1st respondent and based on a joint memo of compromise a common Lok Adalat Award has been passed on 12.12.2019. Due to non-compliance of certain conditions in the common Lok Adalat award, the Execution Petition came to be filed by the 1st respondent in E.P.No.82 of 2020 before the Principal District Judge, Tiruvarur. In the said E.P. the Executing Court had appointed an Advocate Commissioner to inspect and divide the property equally along with the help of Surveyor and allot the equal share to the petitioner and the 1st respondent in terms of the Lok Adalat award dated 12.12.2019. The Advocate Commissioner had filed a report dividing the property as per the terms of the Lok Adalat award and the Executing Court had allowed E.P.No.82 of 2020 based on the report of the Advocate Commissioner. Challenging the same, the present revision has been filed.

5. Pending this revision, the petitioner and the 1st respondent who are siblings have entered into a compromise and as per the terms of the compromise, the petitioner has agreed to take the eastern portion of the property and the 1st respondent has agreed to take the western portion of



CRP.No.1149 of 2024

WEB COPY

the property. They have also filed a joint memo of compromise dated 11.09.2024 with the plan appended to it.

6. On 11.09.2024, the learned counsel for both sides sought time before this Court to give effect to the terms of the joint memo of compromise and thus, the revision is posted today. When the revision was taken up, the learned counsel appearing for both sides submitted that pursuant to the order dated 11.09.2024, the petitioner and the first respondent have effected partition and a dividing wall is also built. They would submit that the order of this Court dated 11.09.2024 had been complied.

7. In view of the joint memo of compromise dated 11.09.2024, the civil revision petition shall stand disposed of as settled. The joint memo of compromise shall form part of the parcel of the record. Consequently, connected miscellaneous petition is closed.

26.09.2024

dhk

Index : Yes/No

Internet : Yes/No

Note: Issue Order Copy on 30.09.2024



CRP.No.1149 of 2024

WEB COPY

To,

1. The Principal District Judge,
Principal District Court, Tiruvarur



WEB COPY



CRP.No.1149 of 2024

A.D.JAGADISH CHANDIRA, J.,

dhk

C.R.P.No.1149 of 2024

26.09.2024



WEB COPY



CRP.No.1149 of 2024

C.R.P.No.1149 of 2024
and C.M.P.No.5927 of 2024

A.D.JAGADISH CHANDIRA, J.

This matter has been listed today under the caption “for clarification” at the instance of the learned counsel for the first respondent/plaintiff.

2. The revision petition stands disposed by order of this court dated 26.09.2024 on the basis of the consensus arrived between the parties and the consequent joint memo of compromise alongwith the plan filed by them.

3. Now, the learned counsel for the first respondent/plaintiff has brought to the notice of this court that the lis between the parties being one for partition and separate possession of the suit property, the contents of the joint memo of compromise arrived between the parties and the plan annexed thereto being imperative one for executing the decree in an efficacious manner, the same is required to be incorporated in the order passed in the civil revision petition.

4. Therefore, the following portion shall be appended to the existing para 5 of the order dated 26.9.2024:-



CRP.No.1149 of 2024

WEB COPY

" The contents of the joint memo of compromise dated 11.9.2024 are as under:-

1. It is submitted that the Respondent herein filed an Execution Petition to execute the Lok Adalat Award dated 12/12/2019 passed in O.S.No. 24 of 2019 on the file of Principal District Court, Thiruvarur for partition of the building at Door No. 7B and 7C V.R. Mudaliar Street, Vijayapuram, Tiruvarur - 610001. The Executing Court passed an order of delivery as per the report of Advocate Commissioner. Challenging the same the above Civil Revision Petition is preferred. Pending the Revision both the parties mutually agreed to compromise/divide the property and to take possession on the following terms:

2. The Petitioner/Defendant agrees to take the Eastern Portion of property as per the plan appended with this compromise memo with the following measurement.

- a) Land Area - 4290.36 Sq. ft (Eastern side)
- b) Ground Floor Building Area - 3526.625 Sq. ft
- c) First Floor Building Area - 3526.625 Sq. ft
- d) Second Floor Building Area - 3526.625 Sq. ft
- e) Third Floor Building Area - 3526.625 Sq. ft

3. The Respondent/Plaintiff agrees to take the Western Portion of property as per the plan appended with this compromise memo with the following measurement.

- a) Land Area - 4866.64 Sq.ft (Western side)
- b) Ground Floor Building Area - 3143.655 Sq. ft
- c) First Floor Building Area - 3254.635 Sq. ft
- d) Second Floor Building Area - 3254.635 Sq. ft
- e) Third Floor Building Area - 3254.635 Sq. ft

4. The Petitioner/Defendant who is allotted with the eastern side of the building is entitled to have the following existing amenities:



WEB COPY



CRP.No.1149 of 2024

- a) Electricity Connection with EB room
- b) Borewell with Water facility.
- c) Two Staircase available inside and outside of the building (eastern side)
- d) All the Racks and tables available on all the Floors (eastern side) of the building.
- e) Car park area outside the Eastern side of the building.
- f) Water Tank available in the Roof Top.

5. The Respondent/Plaintiff who is allotted with the Western side of the building is entitled to have the following existing amenities such as:

- a) All the Racks and Tables available on the Ground Floor (Western Side) of the building
- b) Staircase available inside from Ground Floor to First Floor of the building (Western Side)
- c) Front side parking space and western side open area with toilets.
- d) Two Generator installed in the western side of the building.
- e) Office Room, Locker, Computer Amenities with furniture in the Second floor of the building.
- f) Glass rooms with Furniture racks and tables in the First Floor
- g) Furniture, Racks and Tables in the Second Floor
- h) All electrical fittings and fans and Air Condition machine available in Ground, First and Second Floor.
- i) Lift facility from Ground Floor to Second Floor along with head room

6. The Petitioner/Defendant agrees to give "No Objection" /Consent Letter for the Respondent/Plaintiff to obtain Electricity and Water Connection for the Western Portion of the building from the respective departments.



CRP.No.1149 of 2024

WEB COPY

7. a) The Respondent/Plaintiff agrees to give "No Objection" to the Electricity Department for name transfer of the E.B. Connection in favour of Petitioner/Defendant.

7. b) The Respondent/Plaintiff agrees to give "No Objection/Consent Letter " for the Petitioner/Defendant to obtain water connection for Eastern portion allotted to him from Thiruvarur Municipality.

8. The Respondent/Plaintiff agrees to give "No Objection/Consent Letter" for the Petitioner/Defendant to obtain Property Tax Assessment and other name transfer for the Eastern Portion of the building from the respective Authorities/Departments.

9. The parties hereby agree that the dividing Wall will be constructed on ABCDE portion as per Red line marked in the (Plan)sketch appended with this memo of compromise and the width of Wall (with cross beam) will be 9 inches of each and the parties have to built the same in their respective side allotted to them at their cost.

10. The Petitioner/Defendant agreed to remove the Dress materials/Clothes also placed on the Western Side of the building within 10 days (23-09-2024) from the date of signing of this agreement.

11. The Petitioner/Defendant agree to co-operate with the Respondent/Plaintiff for fixing of the boundaries and construction of the dividing wall as mentioned in Clause 9 above from Ground floor level to Second Floor Roof and a Wall in the Third Floor within 10 days (23-09-2024) from the date of signing of this agreement.

12. In the event of the Petitioner/Defendant failed to remove his Dress material/Clothes within a week as per Clause 10 above, the Respondent/Plaintiff will remove the material and keep it in his custody and return the same on payment of actual



CRP.No.1149 of 2024

WEB COPY

expenses to the Petitioner/Defendant.

13. If either of the parties failed to Co-Operate in construction of the division of wall as per clause 9 above, both the parties are at liberty to approach this Hon'ble Court for obtaining necessary order in this Civil Revision Petition for police protection or any other order as necessary for completing the construction work as stated thereon.

14. The entire electricity connection for the building is connected in the main box situated in the Eastern side allotted to the Petitioner/Defendant and the Respondent/Plaintiff shall Co-Operate with the Petitioner/Defendant for disconnecting the said line from East to West, likewise the Petitioner/Defendant shall Co-Operate to disconnect the generators set connection given from West to East.

It is therefore prayed that this Hon'ble Court may be pleased to record this Joint memo of compromise and pass appropriate orders in terms of the compromise."

A **copy** of the plan appended to the said joint memo of compromise shall form part of the order. "

15.10.2024

ham

Note : Registry is directed to carry out the above correction and issue fresh order copy by 18.10.2024.



WEB COPY



CRP.No.1149 of 2024

A.D.JAGADISH CHANDIRA, J.

ham

C.R.P.No.1149 of 2024
and C.M.P.No.5927 of 2024

15.10.2024