



S.A.No.637 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 02.08.2024

CORAM:

THE HON'BLE MRS.JUSTICE.N.MALA

S.A.No.637 of 2022

Don Bosco Matriculation Higher Secondary School,
Rep. by its Rector and Correspondent,
Fr.Xavier Packia,
No.13, Casa Major Road,
Egmore, Chennai – 600 008. ... Appellant

Vs.

1.R.Vijayakumar
2.The Director of Matriculation Schools,
DPI Compound,
Chennai – 600 006.
3.The Inspector of Matriculation Schools,
No.10, Gandhi Irwin Road,
Egmore,
Chennai – 600 008. ... Respondents

PRAYER:--

This Second Appeal is filed under Section 100 of the Civil Procedure Code, to set aside the Decree and Judgment dated 31.03.2022 passed in A.S.No.45 of 2018 on the file of the XVI Additional City Civil Court, Chennai, reversing the Judgment and Decree in O.S.No.484 of 2015 dated 13.04.2017 by VIII Assistant Court, City Civil Court, Chennai and consequently, allow this Second Appeal.



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For Appellant : Mr.D.Ferdinand
For R1 : Mr.S.Prabhakaran for Paul & Paul
For R2 & R3 : No appearance

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J U D G M E N T

This Second Appeal is filed to set aside the Decree and Judgment dated 31.03.2022 passed in A.S.No.45 of 2018 on the file of the XVI Additional City Civil Court, Chennai, reversing the Judgment and Decree in O.S.No.484 of 2015 dated 13.04.2017 by VIII Assistant Court, City Civil Court, Chennai and consequently, allow this Second Appeal.

2.The suit was filed for declaration that the plaintiff was entitled to get pay and allowance from 01.01.2006 to 31.05.2009 as per the sixth pay commission in terms of the contract of appointment dated 15.06.1981 and for permanent injunction directing the 3rd defendant to pay the pension and gratuity to plaintiff as per his revised pay scale. The trial Court on an assessment of the entire evidence on record dismissed the suit. Aggrieved by the Judgment and Decree of the trial Court, the plaintiff filed an appeal before the lower appellate Court and the lower appellate Court by its Judgment dated 31.03.2022 reversed the Judgment and Decree of the trial Court. Aggrieved by



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the reversing Judgment and Decree of the lower appellate Court the third defendant in the suit filed the above second appeal.

3.Today when the matter was taken up for hearing, the learned counsel for the appellant submitted that the contesting respondent is the first respondent and the respondent Nos.2 and 3, the official respondents are only formal parties.

4.Mr.S.Prabakaran, learned counsel appears for the first respondent.

5.The learned counsel for the appellant as well as the first respondent stated that a compromise was entered into between the appellant and the 1st respondent with respect to the respondents claim against the appellant. The joint memo of compromise is filed recording the terms of compromise.

6.The terms of the joint memo of compromise are as follows:

“i.The 1st respondent doth hereby agree and admit that the appellant being an Unaided Minority Institution are not bound by the Government pay scale. Further, the Appellant is bound to decide on its own terms and conditions including the service condition for its staffs.



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ii. Though, the Appellant need not pay the salary and other benefits including gratuity to its staff, including the 1st respondent herein, taking into consideration the request of the 1st respondent and also taking into consideration his service to the institution and his other personal issues, the appellant has agreed to pay a sum of rs.7,50,000/- (Rupees Seven Lakhs Fifty Thousand Only) to the 1st respondent.

iii. The said sum of Rs.7,50,000/- (Rupees Seven Lakhs Fifty Thousand Only) to the 1st respondent has been paid in the following manner:

i. A sum of Rs.4,53,535/- (Rupees Four Lakhs Fifty Three Thousand Five Hundred and Thirty-five only), which was deposited by the appellant (for obtaining stay) vide Demand Draft No:471619, dated 21.11.2022, drawn on CSB Bank, Chennai – 600 002, into the credit of the Suit Claim to the Registrar, City Civil Court, Chennai, will be withdrawn by 1st respondent and the appellant does not have any objection towards the same.

ii. The balance sum of Rs.2,96,465/- (Rupees Two Lakhs Ninety Six Thousand Four Hundred and Sixty Five Only), has been paid vide Demand Draft No.517288, dated 22.07.2024 drawn on ICICI Bank, Egmore Branch, Chennai – 600 008.

iii. Aggregating in all to Rs.7,50,000/- (Rupees



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Seven Lakhs and Fifty Thousand Only), the receipt of which entire the 1st respondent doth hereby admit and acknowledge the same and hereby relinquishes the Appellant from any further payment thereof.

iv.The 1st respondent having received a sum of Rs.7,50,000/- (Rupees Seven Lakh and Fifty Thousand Only) from the Appellant, shall not have any manner of claim or rights in connection to the issues or claim made in the Suit.

v.The 1st respondent doth hereby assail the order of the trial Court in O.S.No.484 of 2014 and further undertakes that neither him nor any of his family members shall make any attempts to re-agitate the same issues or seek for the reliefs sought for in the suit in separate proceedings.

vi.The payment made to the 1st respondent by the appellant shall not in any manner set a precedence for the other staffs to claim salary or other benefits on par with Government staffs and employees, since it has been made in the present case purely on compassionate grounds and based on the request of the 1st respondent.

vii.Since the issues to be resolved is between the Appellant and the 1st respondent, the 2nd and 3rd respondents are not parties to the present Memorandum of Compromise.”



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7. It is represented by the learned counsel for the first respondent that the appellant had deposited a sum of Rs. 4,53,535/- to the credit of the suit claim to the Registrar, City Civil Court, Chennai while obtaining stay. The learned counsel further submits that the first respondent who is 80 years old lost his son and so he requests this Court to issue a direction to the Registrar, City Civil Court, Chennai to release the aforesaid amount at the earliest.

8. Considering the above facts, a direction is issued to the Registrar, City Civil Court, Chennai to expedite the process of disbursement of Rs.4,53,535/- lying in deposit to the credit of the suit, to the first respondent, on filing proper application and identification.

9. The second appeal is disposed of in terms of the joint memo of compromise. The joint memo of compromise shall form part and parcel of the Decree. However, there shall be no order as to costs.

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NCC : Yes /No

Index : Yes / No



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Speaking Order / Non-speaking order
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To

- 1.The XVI Additional City Civil Court,
Chennai.
- 2.The VIII Assistant Court,
City Civil Court,
Chennai.
- 3.The Director of Matriculation Schools,
DPI Compound,
Chennai – 600 006.
- 4.The Inspector of Matriculation Schools,
No.10, Gandhi Irwin Road,
Egmore,
Chennai – 600 008.
- 5.The Section Officer,
Vernacular Records,
High Court,
Madras.



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N.MALA, J.

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