



S.A. No.2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2024

CORAM :

**THE HON'BLE MR. JUSTICE K. RAJASEKAR**

**S.A. No. 24 of 2022  
and C.M.P. No. 506 of 2022**

1. Velusamy
2. Sellappa Gounder ... Appellants/ Appellants/ Defendants

Vs.

P. Manimekalai ... Respondent/ Respondent/ Plaintiff

Second Appeal filed Under Section 100 of Civil Procedure Code against the Judgment and Decree dated 18.02.2021 in A.S. No.76 of 2020 on the file of the Principal District Judge, Namakkal, confirming the Judgment and Decree dated 03.10.2019 in O.S.No.116 of 2015 on the file of the Additional Subordinate Judge, Namakkal.

For Appellant 1 : Mr. N. Krishnappan  
For Appellant 2 : Mr. K.S. Jayaganeshan  
For Respondent : Mr. P. Navaneetha Krishnan

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## JUDGMENT

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When the matter is taken up for hearing today, the learned counsel appearing for appellants filed two separate memos. In the first memo, he had stated that he has received instructions from his counter part, who appeared on behalf of the second appellant before the Trial Court vide his letter dated 25.05.2023, stating that the second appellant has informed, that he withdraws the vakalat given on behalf of the second appellant for filing this appeal, accordingly, the learned counsel submits that he withdraw the vakalat filed on behalf of the second appellant.

2. In another memo, the learned counsel for the first appellant submits that the second appellant colluded with the respondent/ plaintiff, and settled the entire suit amount without the consent of the first appellant, thereby they had arrived to a settlement behind the back of the first appellant.

3. The learned counsel appearing for the respondent/ plaintiff has submitted that he has also filed a separate memo dated 31.08.2024, stating that the respondent/ plaintiff had filed Execution Petition in R.E.P. No.125 of 2020 on the file of the Additional Sub Court, Namakkal for auctioning the properties



of the second appellant, which was already attached in the execution proceedings. During the pending adjudication of Execution Petition, the second appellant had paid the entire suit claim to the respondent/ plaintiff, thereafter, the respondent/ plaintiff had filed a "Full Satisfaction Memo" before the Additional Sub Court, Namakkal on 31.03.2023. Thereby, there is no necessity for proceeding with this second appeal.

4. The learned counsel appearing for the first appellant has also submitted that the first appellant had defended the suit on the ground that he has not received any money from the plaintiff or executed any promissory note and he is having ample chance to prove the same. However, since the settlement arrived between the second appellant and the plaintiff, behind the back of the first appellant, he expresses his willingness to withdraw this second appeal, if the plaintiff filed an affidavit stating that the first appellant is no way connected with the disputed amount.

5. Admittedly, in this case, the decree has been satisfied by the second appellant and the entire suit amount has been settled to the plaintiff by the second appellant, without the consent of the first appellant. Recording the submissions made on both sides and based on the contents of the memo filed by



the first appellant and the respondent/ plaintiff before this Court, I am of the view that the dispute between the parties has been settled and nothing survives in this second appeal. Further, directing the plaintiff to file an affidavit that, the first appellant has not executed the promissory note, is not permissible and not necessary.

6. Accordingly, this second appeal is disposed of. Consequently, connected civil miscellaneous petition stands closed. No costs.

**14.10.2024**

stn

Index:Yes/No

Speaking Order : Yes/No

Neutral Citation Case : Yes/No



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**K. RAJASEKAR, J.**

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To:

1. The Section Officer,  
VR Section,  
High Court, Madras.

**S.A. No. 24 of 2022**

**14.10.2024**