



A.S.No.806 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2024

CORAM

THE HONOURABLE MRS. JUSTICE J. NISHA BANU
&
THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

A.S.No.806 of 2023
and CMP.No.28655 of 2023

Gopalakrishnan

... Appellant

Vs.

1.Karthick
2.Elangovan

... Respondents

Prayer : Appeal suit filed under Section 96 and Order 41, Rule 1 of CPC, as against the decree and judgment dated 07.09.2023 made in O.S.No.213 of 2022 on the file of III Additional District Court, Kallakurichi.

For Appellant : Mr.K.Thenrajan

For Respondents : Mr.R.Bharathkumar



A.S.No.806 of 2023

WEB COPY

JUDGMENT

[Judgment of the Court was made by J.NISHA BANU, J.]

This Appeal suit is filed by the appellant/defendant as against the decreetal of the suit in O.S.No.213 of 2022 dated 07.09.2023.

2. Today, the parties are present before this court and a joint memorandum of compromise has been filed on behalf of the appellant/defendant and the respondents/plaintiffs duly signed by the parties and attested by the respective counsel. The joint memorandum of compromise is extracted hereunder:-

“1.The respondents herein filed a suit in O.S.No.213 of 2022 on the file of III Additional District Court, Kallakurichi against the appellant herein for Specific Performance of an Agreement of Sale dated 31.01.2021. After contest, the said suit was decreed by the judgment and decree dated 07.09.2023, directing the appellant herein to execute the sale deed in favour of the respondents herein within a period of one month and pay the cost of Rs.4,37,270/-



A.S.No.806 of 2023

(Rupees Four lakhs thirty seven thousand two hundred and seventy

only).

2. It is submitted that aggrieved by the said judgment and decree, the appellant herein filed the above Appeal Suit before this Hon'ble Court. During the pendency of the above Appeal, at the request of both the parties, they were directed to appear before the Mediation Centre to explore the possibility of Settlement. However, there was no consensus arrived at between the parties and the Mediation was failed.

3. It is submitted that at the advice of well-wishers, now the parties have mutually decided to settle their disputes and accordingly decided to reduce the terms and conditions in the following manner:-

a) The appellant has agreed to refund the advance sale consideration of Rs.40,00,000/- (Rupees Forty lakhs only) received by him from the respondents i.e. Rs.5,00,000/- on 28.12.2020, Rs.20,00,000/- on 31.01.2021, Rs.10,00,000/- on 12.03.2021 and Rs.5,00,000/- on



A.S.No.806 of 2023

WEB COPY

15.11.2021 together with interest @ 18% per annum from the date of respective payments till 15.09.2024 i.e., Rs.40,00,000/- + Rs.25,05,000/- towards interest = Rs.65,05,000/- (Rupees Sixty Five lakhs and Five thousand only) and together with the amount paid by the respondents towards court fees i.e.,Rs.3,30,000/- totalling Rs.68,35,000/- (Rupees Sixty Eight lakhs thirty five thousand only). The respondents have agreed to receive the same and rescind the contract.

b) The appellant has today paid a sum of Rs.68,35,000/- (Rupees Sixty Eight lakhs thirty five thousand only) to the respondents herein in the following manner:-

(i) Rs.15,00,000/- (Rupees fifteen lakhs only) by way of Demand Draft bearing No.797744 dated 22.10.2024 drawn on Union Bank of India, Kolathur Branch, drawn in favour of the 2nd respondent herein (Mr.Elangoven) ; and

(ii) Rs.53,35,000/- (Rupees Fifty three lakhs thirty five thousands only) paid by cash today to the respondents.



A.S.No.806 of 2023

WEB COPY

c) The respondents are entitled to withdraw a sum of Rs.70,00,000/- (Rupees Seventy lakhs only) deposited by them towards balance sale consideration to the credit of O.S.No.213 of 2022, on the file of III Additional District Court, Kallakurichi on 27.08.2023 with accrued interest immediately. The appellant has no objection for the same.

d) The respondents have no right, title, interest or whatsoever over the suit schedule property hereafter. The appellant is entitled to deal with the suit property as he likes in the manner known to law and the suit property is free from all encumbrances henceforth.

e) Both the parties agreed that the judgment and decree dated 07.09.2023 passed in O.S.No.213 of 2022, on the file of III Additional District Court, Kallakurichi, shall stand set aside.

f) Both the parties have no claim /right/ demand or whatsoever against each other in future in respect of the suit schedule property.

g) The appellant is entitled to get the refund of court fee paid by him in the memorandum of appeal. “



A.S.No.806 of 2023

3. In fine,

WEB COPY

(i) The Appeal Suit is disposed of, in terms of the joint memorandum of compromise.

(ii) judgment and decree dated 07.09.2023 passed by III Additional District Judge, Kallakurichi, in O.S.No.213 of 2022 is set aside.

(iii) Respondents are entitled to withdraw a sum of Rs.70,00,000/- (Rupees seventy lakhs only) deposited by them to the credit of O.S.No.213 of 2022 with accrued interest. The appellant has no objection for the same.

(iv) the joint memorandum of compromise shall stand form part and parcel of the decree.

(v) Since the matter is settled between the parties, the Registry shall refund the Court Fee as per Rules in force.

No costs. Connected MP is closed.

[J.N.B.,J.] [R.K.M.,J.]
23.10.2024

nvsri



A.S.No.806 of 2023

To
The Judge,
III Additional District Court, Kallakurichi.



WEB COPY



A.S.No.806 of 2023

**J. NISHA BANU, J.
and
R.KALAIMATHI, J.**

nvsri

A.S.No.806 of 2023

23.10.2024