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A.S. No.278 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2024

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

A.S. No.278 of 2020

&

C.R.P.No.3631 of 2019

&

C.M.P.No.23829 of 2019 in C.R.P.No.3631 of 2019

A.S. No.278 of 2020

Mr.R.P.Darramalingam

.. Appellant

Vs.

Mr.K.Thiyagarajan

.. Respondent

Appeal Suit filed under Section 96 r/w Order XLI of C.P.C.
against the judgment and decree dated 02.08.2019 made in O.S.No.1237
of 2019 on the file of V Additional Judge, City Civil Court, Chennai.

For Appellant : Mr.M.Vivekanandan

For Respondent : Mr.M.Sivavarthan

C.R.P.No.3631 of 2019

Mr.R.P.Darrmalingam

.. Petitioner



A.S. No.278 of 2020

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Vs.

Mr.K.Thiyagarajan

.. Respondent

Civil Revision Petition filed under Article 227 of Constitution of India against the fair and decretal order dated 02.08.2019 made in I.A.No.1 of 2019 in O.S.No.1237 of 2019 on the file of V Additional Judge, City Civil Court, Chennai.

For Petitioner : Mr.M.Vivekanandan

For Respondent : Mr.M.Sivavarthanan

COMMON JUDGMENT

(Judgment of the Court was delivered by **M.Sundar, J.**)

Captioned matters have been listed under the cause list caption 'FOR REPORTING SETTLEMENT OR FOR ARGUMENTS'.

2. Before we proceed further, we deem it appropriate to reproduce the proceedings made by this Court in the earlier listings on 13.03.2024 and 20.03.2024, which read as follows:

'Proceedings dated 13.03.2024

Captioned matters arise out of a money suit which was filed as a summary suit i.e., Under Chapter suit under Order XXXVII of 'The Code of Civil Procedure, 1908' (hereinafter 'CPC' for the sake of brevity).

2. Complaint was presented on 09.12.2016 on the Original Side of the High Court. It was subsequently transferred to V



A.S. No.278 of 2020

Additional Judge's Court, City Civil Court, Chennai on change of pecuniary jurisdiction and such transfer was on 02.03.2009. This 'V Additional Judge's Court, City Civil Court, Chennai' shall be referred to as 'said Trial Court' for the sake of convenience.

3. Summary suit was filed claiming a sum of Rs.42,77,696/- together with interest at the rate of 18% per annum from the date of suit till realisation and there is also a prayer for charge qua property in Anna Nagar. As the suit was filed as a summary suit under Order XXXVII CPC, the defendant had taken out a leave to defend application vide I.A. No.1 of 2019 and after full contest, this leave to defend application was dismissed by said Trial Court in and by an order dated 02.08.2019. Consequently, money decree was made in the main suit in O.S. No.1237 of 2019 by said Trial Court.

4. Seeking revision of the order of dismissal of the leave to defend application, captioned Civil Revision Petition (C.R.P. No.3631 of 2019) has been filed and captioned appeal (A.S.278 of 2020) has been filed assailing the money decree in the main suit.

5. Appeal Suit is a regular first appeal under Section 96 of CPC and Civil Revision Petition has been filed under Article 227 of the Constitution of India.

6. Appeal Suit and Civil Revision Petition have been tagged together by an order dated 12.01.2022 made by then Hon'ble Acting Chief Justice vide order made on the administrative side. Post-tagging, captioned matters are before u.s.



A.S. No.278 of 2020

7. Today, Mr.M.Mukilan, learned counsel representing Mr.M.Vivekanandan, learned counsel on record for appellant and Mr.M.Sivavarthanan, learned counsel on record for respondent are before us. To be noted, appellant is the petitioner in Civil Revision Petition and obviously the respondent is the plaintiff in the said Trial Court.

8. It is made clear that it will be necessary to test the dismissal of the leave to defend application, revision of which has been sought as a first step of the legal drill.

9. Be that as it may, aforementioned learned counsel on both sides submit that settlement talks are under way, they are hopeful of arriving at a settlement and request for listing one week hence.

10. List under the cause list caption 'FOR REPORTING SETTLEMENT OR ARGUMENTS' on 20.03.2024.'

Proceedings dated 20.03.2024

Matter mentioned at commencement of proceedings for the day.

2. Mr.M.Mukilan, learned counsel representing the counsel for appellant and Mr.M.Sivavarthanan, learned counsel for respondent are before this Court.

3. To be noted, captioned matters are listed under the cause list caption 'FOR REPORTING SETTLEMENT OR FOR ARGUMENTS'.

4. Aforementioned counsel on both sides submit that settlement has been arrived at and they submit that memorandum



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A.S. No.278 of 2020

of compromise can be filed in this Court if the captioned matters are listed one week hence. Both sides request for rescheduling of the captioned matters. Common request acceded to.

5. List under the same cause list caption i.e., 'FOR REPORTING SETTLEMENT OR FOR ARGUMENTS' one week hence. List on 27.03.2024.'

3. Today (27.03.2024), Mr.R.P.Darmalingam [to be noted, it is Mr.A.R.Darmalingam now], Mr.K.Thiyagarajan, parties / litigants on either side and their respective counsel Mr.M.Vivekanandan for Mr.R.P.Darmalingam and Mr.M.Sivavarthanam for Mr.K.Thiyagarajan are before this Court.

4. Aforementioned counsel for parties submit that earlier proceedings dated 13.03.2024 and 20.03.2024 (extracted and reproduced supra) correctly capture the factual matrix. Therefore, we are not dilating on facts again and it will suffice to say that the aforementioned earlier proceedings shall be referred to for better appreciation of this judgment, decree and order.

5. Adverting to aforementioned earlier proceedings dated 13.03.2024 and 20.03.2024, learned counsel on both sides submit that the matter has since been settled as between the litigants and the terms of



A.S. No.278 of 2020

settlement have been reduced to writing vide a 'Joint Memorandum of
Compromise dated 27.03.2024' [hereinafter 'said JMOC' for the sake of
brevity, convenience and clarity].

6. Aforementioned said JMOC has been placed before us and a
scanned reproduction of the same is as follows:



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A.S. No.278 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Civil Appellate Jurisdiction)

A.S. No.278 of 2020
and
C.R.P. No.3631 of 2019

R.P.Darmalingam,
S/o. Ramakrishnan,
Plot No.2598, Z Block, 5th Street,
Anna Nagar,
Chennai – 600 040.

... Appellant in A.S.No.278 of 2020
... Petitioner in CRP No.3631 of 2019

Vs.

K.Thiyagarajan,
S/o. Kalayanasundaram,
14/1, Shakthi Nagar Main Road,
Arumbakam,
Chennai – 600 106.

... Respondent in A.S.No.278 of 2020
... Respondent in CRP No.3631 of 2019

JOINT MEMORANDUM OF COMPROMISE

1. The parties herein are referred to as Appellant and Respondent. The Appellant and Respondent submit that this Memorandum of Compromise is entered in view of the amicable settlement arrived between them and humbly pray that this compromise may be recorded and the Appeal Suit and Civil Revision Petition be disposed in terms of this Memorandum of Compromise.

2. It is submitted that subject cases arise out of a money suit in O.S.No.1237 of 2019 on the file of V Additional Judge's Court, City Civil Court, Chennai. The said was filed as a summary suit under Order XXXVII of The Code of

R. P. Darmalingam

R. P. Darmalingam



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A.S. No.278 of 2020

Civil Procedure, 1908. The said suit was filed by Respondent as against the Appellant claiming a sum of Rs.42,77,696/- together with interest at the rate of 18% per annum from the date of suit till the date of realization and to create a charge decree in respect of the suit property for the realization of suit claim.

3. The leave to defend application filed by Appellant in I.A. No.1 of 2019 was dismissed by the Hon'ble V Additional Judge's Court, City Civil Court, Chennai by an order dated 02.08.2019 and consequently, money decree was made in the main suit in O.S. No.1237 of 2019 by said Trial Court. Challenging the Fair & Decreeal order dated 02.08.2019 dismissing the leave to defend application, present Civil Revision Petition (C.R.P. No.3631 of 2019) has been filed and as against the Judgment and Decree dated 02.08.2019, present Appeal suit (A.S.278 of 2020) has been filed by the Appellant.

4. During the pendency of the present proceedings, the Appellant and Respondent have mutually agreed to resolve the disputes between them in the present proceedings as follows:

A. The Appellant agree to pay a sum of Rs.36,00,000/- (Rupees Thirty Six lakhs) to the Respondent towards one time full and final settlement against the money decree dated 02.08.2019 in O.S. No.1237 of 2019 on the file of V Additional Judge's Court, City Civil Court, Chennai for a sum of Rs.42,77,696/- together with interest at the rate of 18% per annum from the date of suit till the date of realization and the Respondent agree to accept the said amount of Rs.36,00,000/- (Rupees Thirty Six lakhs) towards full satisfaction of the decree dated 02.08.2019 in O.S. No.1237 of 2019 including the interest.

Rs. 36,00,000/-

Respondent



A.S. No.278 of 2020

WEB COPY

3
B. The above-mentioned settlement amount of Rs.36,00,000/- (Rupees Thirty Six lakhs) is paid by Appellant to Respondent vide Demand Draft No. 321218 dated 26.03.2024 issued by Karai Vysya Bank, Anna Nagar Branch, issued in favour of K.Thiyagarajan and the Respondent hereby confirms and acknowledges the receipt of the same.

5. The Appellant and Respondent mutually agree and confirm that the present compromise is towards the full and final settlement of all the disputes between them in O.S. No.1237 of 2019 on the file of V Additional Judge's Court, City Civil Court, Chennai.

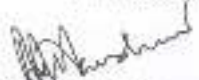
6. The Appellant and Respondent mutually agree and confirm that both parties shall not have claims against each other in respect of the disputes between them in O.S. No.1237 of 2019 on the file of V Additional Judge's Court, City Civil Court, Chennai and Respondent shall not raise any claims against the Appellant in future in respect of the Schedule Property therein.

The Appellant and Respondent humbly pray that this Memorandum of Compromise be recorded and the Appeal suit in A.S.278 of 2020 and the Civil Revision Petition (C.R.P. No.3631 of 2019) may be disposed in terms of this Memorandum of Compromise.

Dated at Chennai on this the 27th day of March, 2024.


APPELLANT (R.P. Derrindlingam)


RESPONDENT (K. Thiyagarajan)


COUNSEL FOR APPELLANT


COUNSEL FOR RESPONDENT



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A.S. No.278 of 2020

**IN THE HIGH COURT OF
JUDICATURE AT MADRAS
(Special Original Jurisdiction)**

A.S. No. 278 of 2020
And
C.R.P. No. 3631 of 2019

R.P.Dharmalingam
S/o. Ramakrishnan

...Appellant/Petitioner

...Vs...

K.Thiyagarajan
S/o.Kalyanasundharam

...Respondents/Respondent

JOINT MEMORANDUM OF COMPROMISE



M/S. M.VIVEKANANDAN- E.No.156/99
V.C. RAKSHITHA - E No.401/96
S. NARENDRA MOORTHY - E No.1234/98

COUNSEL FOR PETITIONER.
9382662424



A.S. No.278 of 2020

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7. The aforementioned litigants have produced their Aadhar Cards for identity and scanned reproduction of the same are as follows:





A.S. No.278 of 2020

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8. Parties do not dispute the identity of each other.

9. Both parties submit that they have signed aforementioned said JMOC on their own volition, out of free will and consent and they would give a closure to the captioned matters [AS and CRP].

10. Thiru.K.Thiyagarajan confirms receipt of Demand Draft referred to in sub-paragraph (B) of paragraph 4 of said JMOC. The Demand Draft was also placed before us and a scanned reproduction of the same is as follows:

11. Adverting to the Demand Draft, Mr.R.P.Darrmalingam submits that he has changed his initials to A.R.Darrmalingam for personal reasons and beliefs (numerology). Mr.Darrmalingam also confirms that the aforementioned Demand Draft has been taken from the funds in his Savings Bank account in Karur Vysya Bank, Anna Nagar



A.S. No.278 of 2020

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12. Aforementioned both learned counsel request for disposal of captioned AS and CRP in terms of said MOC. In the light of narrative thus far, this request is acceded to.

13. Captioned AS and CRP are now disposed of by this common judgment, decree and order in terms of aforementioned said JMOC which shall now form part of decree (to be drawn up) in the AS. There shall be no order as to costs.

(M.S.J.) (K.G.T.J.)
27.03.2024

Index: Yes/No
Neutral Citation: Yes/No
gpa

To

V Additional Judge,
City Civil Court, Chennai



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A.S. No.278 of 2020

**M.SUNDAR.J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,
gpa**

A.S. No.278 of 2020

27.03.2024