



A.S(MD)No.114 of 2014 and
A.S(MD)SR.No.12437 of 2014 and
CROS.OBJ(MD)No.17 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2024

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN
and
THE HON'BLE MR JUSTICE K.K. RAMAKRISHNAN

A.S(MD)No.114 of 2014 & M.P(MD)No.1 of 2014
and
A.S(MD)SR.No.12437 of 2014 & M.P(MD)No.2 of 2014
and
CROS.OBJ(MD)No.17 of 2014 in A.S(MD)No.114 of 2014

A.S(MD)No.114 of 2014

V.Saravanan

: Appellant

vs.

1. The Thendral Nagar Co-operative Building Society,
(R.No.1437)
Represented by its Secretary,
Office at Thendral Nagar,
Trichy-21.

2. Kamalakaran

3. Umasankar

4. Balasubramanian (Died)

5. S.Rajeswari Iyer



A.S(MD)No.114 of 2014 and
A.S(MD)SR.No.12437 of 2014 and
CROS.OBJ(MD)No.17 of 2014

6. Uma Sankar : Respondents
(Respondents 5 and 6 are brought on record as LR's of the deceased 4th respondent vide Court Order dated 10.10.2023 made in CMP(MD)Nos. 9972, 9974 and 9976 of 2019 in A.S(MD)No.114 of 2014)

PRAYER: Civil Miscellaneous Appeal filed under Section 96 read with Order 41 Rule 1 of the Code of Civil Procedure, against the judgment and decree of the III Additional District Court at Tiruchirappalli, dated 12.07.2013 in O.S.No.131 of 2011.

For Appellant	: Mr.P.Arun Jayatram
For R1	: Mr.V.Nagarajan
For R2	: Mr.J.John
For R3	: Mr.M.Muthugeethayan

A.S(MD)SR.No.12437 of 2014

Kamalakaran : Appellant
vs.

1. The Thendral Nagar Co-operative Building Society,
(R.No.1437)
Represented by its Secretary,
Office at Thendral Nagar,
Trichy-21.

2. Saravanan

3. Umasankar

4. Balasubramanian (Died)



A.S(MD)No.114 of 2014 and
A.S(MD)SR.No.12437 of 2014 and
CROS.OBJ(MD)No.17 of 2014

5. S.Rajeswari Iyer

WEB COPY

6. Uma Sankar : Respondents
(Respondents 5 and 6 are brought on record as LR's of the deceased 4th respondent vide Court Order dated 15.03.2024 made in CMP(MD)Nos. 4821 to 4823 of 2017 in A.S(MD)SR.No.12437 of 2014)

PRAYER in A.S(MD)SR.No.12437 of 2014 : Civil Miscellaneous Appeal filed under Section 96 read with Order 41 Rule 1 of the Code of Civil Procedure, against the judgment and decree of the III Additional District Court at Tiruchirappalli, dated 12.07.2013 in O.S.No.131 of 2011.

PRAYER in M.P(MD)No.2 of 2014 in A.S(MD)SR.No.12437 of 2014 : Petition filed under Order 33 Rule 1 of the Code of Civil Procedure, to permit the petitioner herein to file the above appeal against the decree and judgment made in O.S.No.131 of 2011 on the file of the learned III Additional District Court, Tiruchirappalli, dated 12.07.2013, as indigent person.

For Appellant	: Mr.J.John
For R1	: Mr.V.Nagarajan
For R2	: Mr.P.Arun Jayatram



A.S(MD)No.114 of 2014 and
A.S(MD)SR.No.12437 of 2014 and
CROS.OBJ(MD)No.17 of 2014

CROS.OBJ(MD)No.17 of 2014 in A.S(MD)No.114 of 2014

1. The Thendral Nagar Co-operative Building Society,
(R.No.1437)
Represented by its Secretary,
Office at Thendral Nagar,
Trichy-21.

: Cross Objector

vs.

1. V.Saravanan
2. Kamalakaran
3. Uma Sankar
4. Balasubramanian (Died)
5. S.Rajeswari Iyer
6. Uma Sankar

: Respondents

(Respondents 5 and 6 are brought on record as LR's of the deceased 4th respondent vide Court Order dated 10.10.2023 made in CMP(MD)Nos. 9972, 9974 and 9976 of 2019 in A.S(MD)No.114 of 2014)

PRAYER: Cross Objection filed under Order 41 Rule 22 of the Code of Civil Procedure, against the decree and judgment made in O.S.No.131 of 2011 on the file of the learned III Additional District Court, Tiruchirappalli, dated 12.07.2013.

For Cross Objector : Mr.G.Vidhya Maheswaran
For R1 : Mr.P.Arun Jayatram
For R2 : Mr.J.John
For R3 : Mr.M.Muthugeethayan



WEB COPY



A.S(MD)No.114 of 2014 and
A.S(MD)SR.No.12437 of 2014 and
CROS.OBJ(MD)No.17 of 2014

COMMON JUDGMENT

[Judgment of the Court was made by
MRS.V.BHAVANI SUBBAROYAN.J.]

The Thendral Nagar Co-operative Building Society, Trichy, as plaintiff, filed O.S.No.131 of 2011 on the file of the learned III Additional District Court, Tiruchirappalli, against the defendants, for recovery of a sum of Rs.5,00,000/- and to create a charge over the suit properties. The trial Court by judgment and decree dated 12.07.2013, partly allowed the suit directing the defendants 1 and 2 who are appellants in A.S(MD)No.114 of 2014 and A.S(MD)SR.No.12437 of 2014 respectively, to pay the plaintiff Society Rs.5,00,000/- towards the advance amount said to be paid by the plaintiff Society together with interest at 24% per annum from the date of Ex.A1-sale agreement till the date of realisation. With regard to the relief of creation of charge over the suit properties, the suit was dismissed and against the defendants 3 to 5 also, the suit was dismissed. The aggrieved defendants 1 and 2 have filed A.S(MD)No.114 of 2014 and A.S(MD)SR.No.12437 of 2014 respectively. Aggrieved by the rejection portions of the relief sought for



A.S(MD)No.114 of 2014 and
A.S(MD)SR.No.12437 of 2014 and
CROS.OBJ(MD)No.17 of 2014

in the plaint, the plaintiff-Society has filed CROS.OBJ(MD)No.17 of 2014.

2. On 15.02.2024, this Court passed the following order:-

O.S.No.131 of 2011 filed by the Thendral Nagar Co-operative Building Society, Trichy-21 against the five defendants, was allowed as against the defendants 1 and 2. Being aggrieved, the first defendant/Saravanan had preferred A.S(MD)No.114 of 2014 and the second defendant Kamalaharan filed A.S with defect and not yet numbered for the past ten years in A.S(MD)SR.No.12347 of 2014.

2.When the matter is taken up for consideration, the parties have reported that they have entered into a compromise, undertaking that the appellant in A.S(MD)No.114 of 2014(V.Saravanan) shall pay the principal amount with interest at the rate of 6% p.a which comes to Rs.3,27,000/-. Out of that amount, already a sum of Rs.1,25,000/- has already been deposited and that the appellant has agreed to pay the remaining amount of Rs.2,02,000/- on or before 14.03.2024. Similarly, in A.S(MD)SR.No.12437 of 2014, has come forward to pay a sum of Rs.4,90,500/- on or before 14.03.2024 towards full quit and final satisfaction.

3.Cross-Objection preferred by the plaintiff-society to pass an order as against the other defendants 3 to 5. In view of the proposed compromise, the first respondent/Plaintiff has agreed to withdraw the Cross-Objection(MD)NO.17 of 2014. If parties, for any reason, not arrived at a compromise, then the matter will be decided on merits on the next date of hearing ie.,on 15.03.2024.

4.For reporting compliance of the terms of compromise, post the matter on 15.03.2024."



A.S(MD)No.114 of 2014 and
A.S(MD)SR.No.12437 of 2014 and
CROS.OBJ(MD)No.17 of 2014

WEB COPY

3. Today, when the matter was taken up for hearing, it is stated by the counsels appearing for both parties that the parties have settled out the matter and filed joint compromise memos. The 1st defendant/appellant in A.S(MD)No.114 of 2014 has filed a joint compromise memo signed by him as well as the 1st respondent/plaintiff and the terms of the said compromise memo reads as follows:-

"1) It is agreed by the Appellant/1st Defendant to pay the balance of Rs.2,02,000/- by means of Demand Draft payable at Trichy in the name of the 1st Respondent/Plaintiff on or before 14.03.2024.

2) The Appellant has no objection to withdraw the amount deposited by the 1st Respondent/Plaintiff from the III Additional District Court, Trichy.

3) Since compromise is arrived at the 1st Respondent/Plaintiff withdraws his Cross Objection(MD)No. 17/2014."

4. It is stated that pursuant to the said compromise, the appellant in A.S(MD)No.114 of 2014/1st defendant has paid the balance amount of Rs.2,02,000/- by means of Demand Draft No.863164 dated 22.02.2024 drawn in Indian Overseas Bank, Thillai Nagar Branch, to the



A.S(MD)No.114 of 2014 and
A.S(MD)SR.No.12437 of 2014 and
CROS.OBJ(MD)No.17 of 2014

1st respondent/plaintiff and the 1st respondent/plaintiff also received the said demand draft and gave an acknowledgment dated 23.02.2024. The appellant has also filed a memo dated 03.03.2024 along with the photocopies of the said demand draft and acknowledgment dated 23.02.2024 given by the 1st respondent/plaintiff. The said memo is recorded.

5. The 2nd defendant/appellant in A.S(MD)SR.No.12437 of 2014 and 2nd respondent in A.S(MD)No.114 of 2014, has filed a joint compromise memo signed by him as well as the 1st respondent/plaintiff and the terms of the said compromise memo reads as follows:-

"1) It is agreed by the 2nd Respondent/2nd Defendant to pay the Amount of Rs.4,90,500/- by means of Demand Draft payable at Trichy in the name of the 1st Respondent/Plaintiff on or before 14.03.2024.

2) Since compromise is arrived at the 1st Respondent/Plaintiff withdraws his Cross Objection(MD)No. 17/2014."



**A.S(MD)No.114 of 2014 and
A.S(MD)SR.No.12437 of 2014 and
CROS.OBJ(MD)No.17 of 2014**

WEB COPY

6. It is stated that pursuant to the said compromise, the 2nd respondent in A.S(MD)No.114 of 2014/2nd defendant has paid the balance amount of Rs.4,90,500/- by means of two demand drafts i.e., (i) Demand Draft No.096009 dated 21.02.2024 drawn in Axis Bank, Tiruchirappalli, for a sum of Rs.1,90,500/- to the 1st respondent/plaintiff and (ii) Demand Draft No.910004 dated 22.02.2024 drawn in Punjab National Bank, Nandi Koil Street, Tiruchirappalli-2, for a sum of Rs.3,00,000/- to the 1st respondent/plaintiff. The 1st respondent/plaintiff also received the said demand drafts and gave two acknowledgments dated 23.02.2024. The said acknowledgments by the 1st respondent/plaintiff are recorded.

7. The 1st respondent/plaintiff has also filed a memo dated 14.02.2024 enclosing the Resolution passed by the Society to receive advance amount of Rs.5,00,000/- with 6% interest. Accordingly, the defendants 1 and 2 have also calculated the amount with 6% interest and paid as aforesaid. The said memo dated 14.02.2024 filed by the 1st respondent/plaintiff is also recorded.



**A.S(MD)No.114 of 2014 and
A.S(MD)SR.No.12437 of 2014 and
CROS.OBJ(MD)No.17 of 2014**

WEB COPY

8. The suit was dismissed as against the defendants 3 to 5. The 1st respondent/plaintiff has not made any claim as against the 3rd defendant in the suit and therefore there is no liability as against 3rd defendant.

9. In view of the aforesaid joint compromise memos filed between the 1st respondent/plaintiff and the defendants 1 and 2 who are appellants in A.S(MD)No.114 of 2014 and A.S(MD)SR.No.12437 of 2014 respectively, **A.S(MD)No.114 of 2014 and A.S(MD)SR.No.12437 of 2014 and CROS.OBJ(MD)No.17 of 2014 in A.S(MD)No.114 of 2014 are disposed of in terms of the joint compromise memo.** The joint compromise memos and acknowledgments filed in these cases shall form part of the common judgment and decree. In view of the compromise, the 1st respondent/plaintiff Society is permitted to withdraw the amount deposited before the trial Court as per the procedure established under law.



A.S(MD)No.114 of 2014 and
A.S(MD)SR.No.12437 of 2014 and
CROS.OBJ(MD)No.17 of 2014

WEB COPY

10. Registry is directed to return the court fee to the parties concerned as per the procedure therefor. No costs. Consequently, connected miscellaneous petitions are closed.

(V.B.S.J.) (K.K.R.K.J.)
15.03.2024

Index :Yes / No
Neutral Citation :Yes / No
bala

To

1. The Judge,
III Additional District Court,
Tiruchirappalli.

2.V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



A.S(MD)No.114 of 2014 and
A.S(MD)SR.No.12437 of 2014 and
CROS.OBJ(MD)No.17 of 2014

V.BHAVANI SUBBAROYAN, J.
and
K.K. RAMAKRISHNAN, J.

bala

COMMON JUDGMENT MADE IN
A.S(MD)No.114 of 2014 and
A.S(MD)SR.No.12437 of 2014 and
CROS.OBJ(MD)No.17 of 2014
DATED : 15.03.2024