



A.S.(MD).No.150 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 14.02.2024

CORAM

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR.JUSTICE C.KUMARAPPAN**

A.S.(MD).No.150 of 2014

S.Venkatesan

.. Appellant/Plaintiff

Vs.

Ponnammal (Died)

1.V.Elangovan

2.M.Sidtharthan

3.Ponnan (Died)

.. Respondents/Defendants

4.Indrani

5.P.Ashok

6.P.Prakash

7.P.Dinesh

.. Respondents 4 to 7

(R-4 to R-7 are brought on record as LR's of the deceased 3rd respondent vide Court order dated 10.11.2022 made in C.M.P.(MD).Nos.10235 and 10236 of 2022 in A.S.(MD).No.150 of 2014)



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PRAYER: Appeal Suit filed under Section 96 r/w Order 41 Rule 1 of Civil Procedure Code, praying to set aside the judgment and decree passed in O.S.No.152 of 2010 on the file of the III Additional District Judge, Trichy dated 02.06.2014 and allow the appeal.

For Appellant : Mr.C.Vakeeswaran

For Respondents : Mr.R.Raguvaran Gopalan for R-1

Mr.K.S.Vamsidar for R-2

Mr.H.Lakshmi Shankar for R-4 to R-7

R-3 – died

JUDGMENT

DR.G.JAYACHANDRAN,J.

and

C.KUMARAPPAN,J.

The Appeal Suit is filed against the judgment of the Trial Court dismissing a fresh suit questioning the validity of the compromise decree passed earlier.

2. The Trial Court, after considering the law governing the issue particularly, the tenor of Order 23 Rule 3A of CPC, had dismissed the suit. Being aggrieved, the present Appeal Suit is filed contending that the compromise decree was preceded by a Muchalika dated 01.02.2010, marked



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as Ex.A4 and the combined reading of the Muchalika, Ex.A4 and the compromise decree goes to show that the compromise decree entered in O.S.No.167 of 2009 is vitiated and void.

3. The learned counsel appearing for the first respondent submitted that having received the money under the compromise decree, the appellant/plaintiff is estopped from challenging the compromise decree and even if he has any grievance, he ought to have availed the remedy provided under law and that a fresh suit is specifically barred under the statute under Order 23 Rule 3A CPC. Therefore, he submitted that the judgment of the Trial Court is in tune with the law and the judgments rendered on this point.

4. This Court while considering the point for determination in this appeal finds that the issue involved is no more *res integra* and time and again, the Hon'ble Apex Court and the High Courts have held that after the parties entered into compromise and decree passed accordingly, any further issue should be agitated only before the Court, which has passed the compromise decree and no fresh suit can be initiated. It is clear that the law does not denude the aggrieved party from challenging the compromise



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decree, but the forum must be the same Court, which has passed the decree and no fresh suit can be initiated. This has been reiterated by the recent judgment of the Hon'ble Supreme Court in the case of ***Sree Surya Developers and Promoters Vs. N.Sailesh Prasad and others reported in (2022) 5 SCC 736***, wherein, after referring to its earlier judgments in total, the Hon'ble Supreme Court has held that the parties have to work out their remedy by approaching the original Court, which has passed the compromise decree, in the light of the power under Order 23 Rule 3A CPC.

5. In view of the above settled principle of law, the Appeal Suit is liable to be dismissed. Accordingly, the Appeal Suit is dismissed. By dismissal of the appeal, the right of the appellant to work out his remedy as per the law will not be taken away. There shall be no order as to costs.

(G.J.,J.) (C.K.,J.)
14.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm



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To

1. The III Additional District Court,
Tiruchirappalli.

2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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