



S.A.(MD)No.393 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

S.A.(MD)No.393 of 2018

and

C.M.P.(MD)No.11122 of 2018

Sevathal
through her Power of attorney Muthaiah

... Appellant/
Respondent/
Defendant

Vs.

Periyaya

... Respondent/
Appellant/
Plaintiff

PRAYER: Second Appeal filed under Section 100 of Civil Procedure Code, to call for the records and set aside judgment and decree dated 26.06.2018 in A.S.No.26 of 2014 on the file of the Sub-ordinate Judge, Sivagangai, partly modifying the judgment and decree dated 10.01.2014 in O.S.No.1 of 2010 on the file of the District Munsif Court, Sivagangai, in so far as it relates to granting a declaration negating the title of the defendant to the suit property and allow this second appeal.



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For Appellant : Mr.H.Lakshmi Shankar

For Respondent : No appearance

JUDGMENT

The Second Appeal is directed against the judgment and decree passed in A.S.No.26 of 2014 dated 26.06.2018 on the file of the Subordinate Court, Sivagangai, partly setting aside the judgment and decree made in O.S.No.1 of 2010 dated 10.01.2014 on the file of the District Munsif Court, Sivagangai.

2. The respondent has filed a suit in O.S.No.1 of 2010 against the appellant claiming permanent injunction. After full-trial, the suit was ordered to be dismissed vide judgment and decree dated 10.01.2014. Challenging the dismissal of the suit, the respondent has preferred an appeal in A.S.No.26 of 2014 on the file of the Subordinate Court, Sivagangai and the learned appellate Judge has passed a judgment and decree dated 26.06.2018 partly allowing the appeal by setting aside the finding of the trial Court and held that the defendant is not the absolute owner of the suit property and that the plaintiff is not entitled to the relief



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of permanent injunction as prayed for and thereby confirming the remaining portion of the judgment and decree of the trial Court. Aggrieved by the finding of the appellate Court that the defendant is not the owner of the suit property, the respondent/defendant has preferred the present second appeal.

3. When the matter is taken up for hearing today, both the appellant as well as the respondent appeared in person before this Court along with the appellant's counsel on record and filed a Joint Compromise Memo dated 06.06.2024, duly signed by the above said parties along with the appellant's counsel.

4. The learned counsel appearing for the appellant would submit that pending second appeal, both the parties have entered into a settlement between them and in pursuance of the same, they have entered into a registered exchange deed dated 27.11.2023 registered on the file of Kalaiyar Kovil Sub Registrar, wherein, southern half of the suit property in Survey No.326/1A1 has been given to the respondent in exchange for the similar extent of 14 cents of the respondent's property lying on the



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west of the suit property and that both the parties have taken possession of their respective properties as per the exchange deed.

5. The contents of the Compromise Memo are read over to the parties and explained in Tamil and both of them would admit the same as true and correct. Hence, the Joint Compromise Memo dated 06.06.2024 is recorded.

6. In the result, the Second Appeal is disposed of in terms of compromise. The Joint Compromise Memo dated 06.06.2024 along with exchange deed dated 27.11.2023 shall form part and parcel of the decree. Consequently, connected Miscellaneous Petition is closed. No costs.

06.06.2024

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
csm



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To

1. The Subordinate Court, Sivagangai.
2. The District Munsif Court, Sivagangai.



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K.MURALI SHANKAR, J

csm

Judgment made in
S.A.(MD)No.393 of 2018
and
C.M.P.(MD)No.11122 of 2018

Dated : 06.06.2024