

SA(MD)No.557 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

SA(MD)No.557 of 2024
and
CMP(MD)No.12103 of 2024

V.James Sundar Singh

.. Appellant

v.

1.Chellammal

2.Sakthivel

3.Natarajan

4.Lakshmi

5.Santhoshkumar

6.Sasikala

.. Respondents

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code to set aside the judgment and decree passed in A.S.No.35 of 2014 on the file of the Principal District Court, Dindigul, dated 20.10.2017,



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confirming the judgment and decree passed in O.S.No.302 of 2012, dated

28.02.2014, on the file of the Sub Court, Veda sandur.

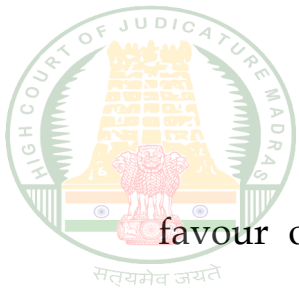
For Appellant : Mr.K.Appadurai

For Respondents : Mr.M.Natarajan for R.1, R.2

JUDGMENT

This second appeal is filed by the appellant / fifth defendant as against the judgment and decree passed in A.S.No.35 of 2014, by the learned Principal District Judge, Dindigul, dated 20.10.2017, confirming the judgment and decree passed in O.S.No.302 of 2012, dated 28.02.2014, by the learned Subordinate Judge, Veda sandur.

2.The first plaintiff / first respondent herein and the first defendant / third respondent herein are sister and brother. The plaintiffs are mother and son. The defendants 2 to 4 are the wife and children of the first defendant. The suit schedule property is their ancestral property. When their mother was alive, a power deed was executed on 27.09.2002 [Ex.A6] in



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favour of the first defendant. Though this document was cancelled on 17.02.2009, vide Ex.A7, the first defendant executed a deed in favour of his wife by a registered document dated 23.07.2009. Therefore, the plaintiffs have filed O.S.No.302 of 2012 before the Sub Court, Vedasanthur, claiming partition.

3. Pending the suit, the fifth defendant / appellant herein purchased the property from the second defendant / first defendant's vide Ex.B2. The first defendant took a plea that the suit property was conveyed to him by way of an unregistered Will executed by his mother, Kaliammal. However, the alleged Will was not placed before the Court. Kaliammal executed a power deed in favour of the first defendant on 27.09.2002 and she died on 24.03.2003. Based on this power document, the first defendant has sold the property in favour of his wife / second defendant on 23.07.2009. Thereafter, the fifth defendant / appellant purchased the property from the second defendant, pending the suit. Taking note of the same, the trial Court decreed the suit, by judgment dated 28.02.2014. As against the judgment and decree, the defendants 1 & 2 have not preferred any appeal. However,



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the fifth defendant / purchaser has preferred the appeal in A.S.No.35 of 2014. It was dismissed and therefore, he has moved this second appeal.

4.Since the appellant / fifth defendant has purchased the property pending the suit proceedings, it is hit by the doctrine *ut lite pendente nihil innovetur*. Therefore, this Court is not inclined to entertain the second appeal. However, the appellant's Counsel submitted that pending the appeal, there was a compromise talk among the parties and that the issue has been settled between the appellant and the respondents 1 & 2 / plaintiffs.

5.A joint compromise memo dated 13.09.2024, signed by the appellant and the respondents 1 & 2 / plaintiffs, was placed before this Court. As per this document, the appellant has agreed to pay a sum of Rs.4,00,000/- to the respondents 1 & 2 / plaintiffs towards the value of their half share in the suit property. As full and final settlement, the respondents 1 & 2 / plaintiffs have also agreed for the same and received the amount vide Cheque No.832272 dated 08.10.2020.



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6.The appellant / fifth defendant and the respondents 1 & 2 / plaintiffs are present before this Court today and their identity has been verified. The respondents 1 & 2 / plaintiffs have confirmed the terms of the compromise.

7.In view of the above developments, this second appeal stands closed. The joint compromise memo dated 13.09.2024 shall form part and parcel of this judgment. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
NCC : Yes / No
Internet : Yes
LR/gk

27.09.2024

To

1.The Subordinate Judge,
Vedasandur.

2.The Principal District Judge,
Dindigul.



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B.PUGALENDHI, J.

LR/gk

3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

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