



S.A(MD)No.87 of 2004

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **24.10.2024**

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

**S.A(MD)No.87 of 2004
and
C.M.P(MD)No.319 of 2004**

1.Balakrishnan

2.Nagarani

... Appellants/Appellants/Defendants

Vs.

Karthikeyan

... Respondent/Respondent/Plaintiff

(Minor respondent is declared as major and the guardianship of his father-Jayaraj is discharged vide order dated 26.09.2024)

Prayer: Second Appeal filed under Section 100 of the Code of Civil Procedure against the judgment and decree dated 14.06.2004 made in A.S.No.19 of 2003 on the file of the Sub Court, Srivilliputtur, confirming the judgment and decree dated 19.02.2003 made in O.S.No.385 of 2000 on the file of the Principal District Munsif Court, Srivilliputtur.



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For Appellants

: Mr.S.Kadarkai

For Respondent

: Mr.H.Arumugam

JUDGMENT

Heard the learned counsel appearing for the appellants and the learned counsel appearing for the respondent.

2.The learned counsel appearing on either side submits that the matter has been amicably settled between the parties and they have also filed a joint compromise memo, dated 23.10.2024. The joint compromise memo is found to be signed by both the parties along with the counsel on record and a scanned reproduction of the same is as follows:



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IN THE HIGH COURTS OF JUDICATURE OF MADRAS
BENCH AT MADURAI
(APPELLATE SIDE)

S.A.(MD)No. 87 OF 2004

against

A.S.No.19 of 2003

(On the file of the Sub-Court, Srivilliputhur)

against

O.S.No.385 of 2000

(On the file of the Principal District Munsif Court, Srivilliputhur)

1. Balakrishnan,
S/o. Krishnan,
2. Nagarani,
W/o. Balakrishnan.

Both the appellants are residing at
294, Anayoor Street(Kumaran Street),
Rajapalayam Town,
Virudhunagar District

... Appellants/Appellants/Defendants

Versus

Karthikeyan,
S/o. Jayaraj,
294, Anayoor Street(Kumaran Street),
Rajapalayam Town,
Virudhunagar District

... Respondent/Respondent/Plaintiff

Joint Compromise Memo

The above second appeal has been filed against the judgment and decree passed in A.S.No.19 of 2003 dated 14-06-2004, on the file of the Sub-Court, Srivilliputhur confirming the judgment and decree passed in O.S.No.385 of 2000 dated 19-07-2003, on the file of the Principal District Munsif Court, Srivilliputhur.

1. *K. Balakrishnan*

2. *G. Nagarani*

Appellants/ Defendants

J. Karthikeyan

Respondent/Plaintiff



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The Respondent/Plaintiff filed the suit against the appellants/defendants for permanent injunction and for mandatory injunction to the remove the encroachments made by the appellants/ defendants on the western side of the suit property. The Appellant has constructed the house and his eastern wall completely lies within the property of the respondent/plaintiff and both the courts below have confirmed the same and granted the decree for mandatory injunction. If it is executed the entire building would be collapsed.

At this juncture this Hon'ble Court advised both parties to amicable settle the matter by fixing some amount as compensation for the encroached portion. The counsel for the appellant also agreed for the said arrangement and when the said proposal was informed to the respondent, he magnanimously conceded that no amount be given as compensation and considering the relationship, matter can be settled on the following terms of the settlement to put an end to the 24 years old litigation losing relationship and harmony between the parties.

TERMS AND CONDITIONS

a) That the appellants/defendants hereby admit the right and title of the respondent over the suit properties, wherein the appellants constructed their house encroaching East West 3 1/2 feet width and North-South length of 35 feet on the western side of the suit property.

b) That the respondent/plaintiff relinquishes his right over said encroached portion in favour of the appellants without getting any compensation but to have the harmony in relationship alone.

1. K. Balakrishnan

2. Annapurani

Appellants/ Defendants

J. K. K. K.

Respondent/Plaintiff



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(c) That the appellants shall not make any claim over the suit property apart from that 3 1/2 feet mentioned above and the respondent also shall not make any claim over the same but entitled to put up construction if any in future over and above the eastern wall of the appellants. The appellants shall not make any objection to join the new wall with their existing wall.

(d) That the appellants hereby undertake that they will not interfere with the possession of the suit property by the respondent in any manner, by putting up any more construction in the suit property.

(e) That all the parties agreed to pass the decree in terms of the compromise memo.

Dated at Madurai on this the 23rd day of October, 2024

1. K. B. ...

2. G. Nazareni.

Appellants/ Defendants

- J. Kautsky

Respondent/Plaintiff

W. Lloyd Garrison, Jr.

101 Counsel for Appellants

1.2. Theorem $P \rightarrow Q$

Counsel for Respondent



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3. Accordingly, the Second Appeal is disposed of in terms of the joint compromise memo dated 23.10.2024 and there will be a decree accordingly. The compromise memo, dated 23.10.2024, shall form part of the decree. No costs. Consequently, connected Miscellaneous Petition is closed.

24.10.2024

NCC : Yes/No
Index : Yes/No
ps



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To

- 1.The Sub Court,
Srivilliputtur.
- 2.The Principal District Munsif Court,
Srivilliputtur.
- 3.The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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V.BHAVANI SUBBAROYAN, J.

ps

Judgment made in

S.A(MD)No.87 of 2004

24.10.2024