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C.M.A.No.2131 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2025

CORAM

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

C.M.A.No.2131 of 2024

1. K.Bindhukumari
 2. K.Geetharani
- ...Appellants

Vs.

1. K.Boopalan
 2. K.Mohanam
 3. M.Thendral
 4. Minor M.Tamilzhini
(Minor represented by her natural guardian
and father 2nd defendant)
- ...Respondents

Civil Miscellaneous Appeal filed under Order 43 Rule 1 of CPC, against the order dated 03.04.2024 in I.A.No.3 of 2023 in O.S.No.8 of 2023 passed by the Court of Additional District Judge (FTC) at Vellore, Vellore District.

For Appellants : Mr.L.P.Shanmugasundaram

For Respondents : Mr.E.Kannadasan, for R1 to R4
: No Appearance, for R5



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ORDER

Today, this matter is listed under the caption “For Being Mentioned” at the instance of the Registry.

2. It is brought to the notice of this Court by the Registry that, this Court, vide order dated 31.01.2025 disposed of this Civil Miscellaneous appeal in terms of compromise. Though this appeal has been filed as against the order passed in interlocutory application in I.A.No.3 of 2023 in O.S.No.8 of 2023, however, in paragraph 4 of the said order, inadvertently it has been typed as if there will be a decree in terms of the joint memo of compromise, when the main suit in O.S.No.8 of 2023 itself is pending before the lower court. Thereby, request is made to pass appropriate orders.

3. This Court perused the order dated 31.01.2025, particularly, para 4 of the said order, and this Court is satisfied and accordingly, paragraph 4 of the order dated 31.01.2025 shall stand replaced with the following paragraph:



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“ 4. Accordingly, this Civil Miscellaneous Appeal stands disposed of in terms of the above Joint Memo of Compromise dated 29.01.2025 and the same shall form part of the records and the parties are directed to strictly implement the said joint memo of compromise. Further, the Trial court is directed to dispose of the suit in O.S.No.8 of 2023 in terms of the above said Joint Memo for Compromise dated 29.01.2025 as expeditiously as possible. No costs. Consequently, the connected Miscellaneous petitions are closed.”

4. All the other observations made in the earlier order dated 31.01.2025 shall remain intact.

5. Registry is directed to carry out the necessary correction as aforesaid in the order dated 31.01.2025 and issue fresh copy of the order to the learned counsel for the parties.

10.03.2025

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M.DHANDAPANI, J.

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DATED : 31.01.2025

CORAM

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

C.M.A.No.2131 of 2024
and
CMP.Nos.16323 & 16325 of 2024

1. K.Bindhukumari

2. K.Geetharani

...Appellants

Vs.

1. K.Boopalan

2. K.Mohanam

3. M.Thendral

4. Minor M.Tamilzhini
(Minor represented by her natural guardian
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Civil Miscellaneous Appeal filed under Order 43 Rule 1 of CPC,
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For Appellants : Mr.L.P.Shanmugasundaram

For Respondents : Mr.E.Kannadasan, for R1 to R4
: No Appearance, for R5

JUDGMENT

The present Civil miscellaneous appeal has been filed seeking quashment of the order dated 03.04.2024 made in I.A.No.3 of 2023 in O.S.No.8 of 2023 on the file of the Additional District Judge (FTC) at Vellore, Vellore District.

2. It is the case of the appellants/plaintiffs that, the suit property is a Hindu Undivided Joint family property and one M.Muthusamy Mudalir, who is the grandfather of the plaintiffs and the 1st & 2nd respondents and his sons namely, M.Kothandan and M.Pannerselvam divided the properties that belonged to their family by metes and bounds and the said Kothandam died intestate leaving behind the appellants and the 1st and 2nd respondents as his legal heirs. While so, as there was some dispute between the appellants and the respondents, the appellants filed a suit as against the respondents for



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declaring that the appellants/plaintiffs are entitled 1/4th share each in the suit property and to declare certain Settlement Deeds as null and void, in which, the appellants filed an interim application in I.A.No.3 of 2023, which came to be dismissed, vide impugned order. Challenging the same, the appellants have come up with this appeal.

3. When the matter was taken up for hearing today, the learned counsel for the appellants as well as the respondents submitted that, pursuant to the order of this Court dated 09.12.2024 referring the matter to mediation, the parties have arrived at a settlement. Though the mediation report was not placed before this Court, based on the settlement arrived at in between them, the parties have filed a Joint Memo of Compromise dated 29.01.2025 signed by both parties and their respective counsel has been filed before this Court. The relevant portion of the said terms of compromise are extracted hereunder:

“6. The case came up for hearing Before the Honble High



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Court on 09/11/2024 and the Honble High Court directed the parties to go for mediation. As such the Mediation was conducted at the TNMCC on several dates with the parties and Mrs.Yasodha, and after proper discussion a amicable settlement arrived at and it was agreed that the parties (Respondent/Defendant and Mrs.Yasoha) shall transfer the schedule B of the Joint Memo of Compromise properties to the Appellant/Plaintiff and the remaining property shall be owned and enjoyed by the 1st, 2nd respondent and Mrs.Yasodha.

7. The 1st, 2nd respondent and Mrs.Yasodha has accepted to convey a portion of the suit A schedule Suit Properties in (O.S No.8 of 2023) to the 1st and 2nd Appellant. The portion of the suit schedule property hereby conveyed is set out in this Memorandum of compromise as Schedule B. The portion of the suit remaining properties in Suit "A Schedule Property excluding the B schedule as the property shall be under the ownership and enjoyment of the 1st, 2nd Respondent/Defendant and Mrs.Yashodha.

8. In order to give complete effect to the terms of the compromise as arrived in mediation so as to enable conveyance of 0.17 cents in Survey No.513, Mrs.K.Yasodha, Mr.K.Boopalan, Mr. K.Mohanam, K.Bindhu Kumari and K.Geetharani and P.Vasanthakumar have executed an unregistered exchange deed dated 22.01.2025. The said exchange deed shall part of the memo of compromise. The parties agreed to register the same if required.

9. Now the Parties have agreed to transfer the properties mentioned in the Memo of Compromise as "Schedule B", to the Appellant/Plaintiff, which shall be owned and enjoyed by them



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equally. The same has been accepted by the 1, 2 Respondent/ Defendants and Mrs.Yasodha and the transfer of such properties mentioned in Schedule B shall be free of any encumbrance. Any Subsisting encumbrance shall be cleared on or before 28.02.2024 and possession of the properties shall be handed over to the Appellant's on or before 30.03.2025.

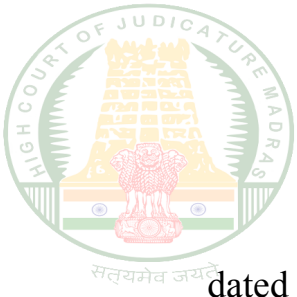
10. The Parties agreed that this Joint memo of compromise shall be recorded in the Suit and that the Hon'ble Additional District Judge FTC at Vellore shall pass a preliminary and final Decree in terms of compromise.

11. The parties agree to strictly abide by this Joint compromise memo. If any of the parties hereto violates this Joint compromise Memo, the affected party can seek for Execution to enforce their rights as per the Joint compromise Memo and decree passed thereon before the appropriate court of Law.

12. This Joint Compromise Memo forms a full and final settlement of the dispute pertaining to the suit schedule properties and there shall be no other claim by any of the parties hereto in respect of the properties covered in this Memo of Compromise.

13. All the parties hereto have voluntarily executed this Memo of Compromise and agree to share the properties as set out herein.”

4. Accordingly, this Civil Miscellaneous Appeal stands disposed of and there shall be a decree in terms of the above Joint Memo of Compromise



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dated 29.01.2025 and the same shall form part of the records and the parties

are directed to strictly implement the said joint memo of compromise.

Further, the Trial court is directed to dispose of the suit in O.S.No.8 of 2023

in terms of the above said Joint Memo for Compromise dated 29.01.2025.

No costs. Consequently, the connected Miscellaneous petitions are closed.

31.01.2025

skt

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

To:

The Additional District Judge (FTC),

Vellore, Vellore District.

Note to office: Issue order copy on 06.03.2025.



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