



O.S.A.No.213 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2025

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

O.S.A.No. 213 of 2024
and
C.M.P.No. 23654 of 2024

1.A.S.Kalaichelvan
A.S.Elangovan (deceased)
2.E.Sivakumari
3.E.Poongothai
4.E.Pandian

.. Appellants

VS

1.S.Malliga
2.G.Mohanan
3.Jothi Lakshmi
4.Vasnth O
5.T.Nirmala

.. Respondents

Prayer : Appeal filed under Order 36 Rule 1 of O.S. Rules read with Clause 15 of Letters Patent against order dated 21.03.2024 made in T.O.S.No. 16 of 2018.

For Appellants : Ms.Sambhalakshmi
for Mr.A.Palaniappan

For Respondents : Mr.Aravind Subramaniam,
Senior Counsel
for Ms.Shenaz



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JUDGMENT

(Delivered by Dr. ANITA SUMANTH.,J)

Both Ms.Sambhalakshmi, representing Mr.A.Palaniappan, learned counsel, appearing for the appellant and Mr.Aravind Subramaniam, learned Senior Counsel, representing Ms.Shenaz, learned counsel for the respondent states that the parties have settled the matter out of the Court. A joint memo dated 01.08.2025 has been filed by the parties and the same reads as follows:-

*“JOINT MEMORANDUM OF COMPROMISE
FILED UNDER ORDER XXIII RULE 3 OF CPC
BY THE APPELLANTS AND RESPONDENTS*

It is humbly submitted that the Memorandum of Compromise filed by the appellants and respondents is as follows:-

The 1st Appellant is the eldest son of A. Subramaniam, hereinafter referred to as the 1st Party.

The deceased 2nd appellant A. S. Elangovan is the son of A. Subramaniam, being survived by his legal heirs the 3rd Appellant Mrs. E. Sivakumari wife of A. S. Elangovan, the 4th Appellant is E. Pongothai wife of N. Yuvaraj, and also daughter of A. S. Elangovan, the 5th Appellant is E. Pandian son of A. S. Elangovan, hereinafter collectively referred to as the 2nd party.



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The 1st Respondent is Malliga, wife of Thanikachalam, also daughter of A.Subramaniam hereinafter referred to as the 3rd Party.

The 2nd Respondent is G. Mohanan husband of Tamilarasi, the 3rd Respondent is Jothi Lakshmi daughter of G. Mohanan and also daughter of Tamilarasi, the 4th Respondent is Vasanth son of G. Mohanan and also son of Tamilarasi, hereinafter referred to as the 4th Party.

The 5th Respondent is T. Nirmala, wife of late Thiyagarajan and also daughter of A. Subramaniam, hereinafter referred to as the 5th Party.

Whereas the 1st Appellant and the 2nd Appellant had jointly filed O. P. No. 482/2014 seeking for letters of administration in respect of the will of late M. Arumugam dated 26-04-1989 registered as Document No. 46 of 1989 on the file of the SRO sembiam.

Whereas the aforesaid Will dated 26-04-1989 was in respect of the quitting of the property being Old No. 17, New No. 36, Subramanian Salai, Perumbur, Chennai-11 and land of an extent of 2989 square-feet and at the time of purchase of the said property bearing Door No. 54, Thulasingham Mudali Street, Perumbur, Chennai comprised in Old Survey No. 153, Resurvey No. 422 bearing Collector Certificate No.124 ['the said property'].

Whereas the respondents having caveatable interest in respect of the aforesaid proceedings had filed a caveat dated 21-09-2017 based upon which the aforesaid OP was converted into TOS. The aforesaid TOS proceedings was dismissed by judgement and decree dated 21-03-2024.



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Aggrieved as against the aforesaid dismissal of TOS the present OSA is filed by the appellants.

Whereas O.S.No. 6100 of 2013 on the file of XV Asst. City Civil Court was filed by the appellants as against the Respondents herein for the following reliefs:-

(a) Declare that the Settlement Deed executed by the S. Rajeswari dated 26-12-2008 registered as document No. 4784 of 2008 on the file of the sub registrar Purasaiwalkam the sixth Defendant herein as null and void and not operative as against the Plaintiff and consequently direct the 6th Defendant herein to record the cancellation of the said document in terms of the declaration decree granted by this Hon'ble Court.

(b) Grant permanent injunction in favour of the Plaintiff as against the Defendants, from any manner deal in the said property by executing any further document are encumbrance in respect of the suit schedule property against the interest of the plaintiffs.

Whereas the aforesaid suit was dismissed by Judgment and Decree dated 24-08-2016 on the ground that the will cannot be relied upon since it is an probate and no letters of administration is obtained at that point of time in respect of the aforesaid Will by which the appellants are claiming right in respect of the property.

Whereas the appellants had filed A. S. No. 268 of 2016 on the file of the 2nd Additional City Civil Court Chennai and the same is pending.

Whereas it is resolved at this juncture as between the Appellants herein and Respondents herein being the legal representatives of the deceased A.



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Subramaniam had collectively deemed it fit to resolve all the differences in respect of the property covered by the aforesaid Will and have decided to sell the said property and thereon divide the sale proceeds equally between the parties.

Whereas in furtherance of recording the aforesaid compromise in respect of the said property, the following terms of compromise is recorded on the file of this Hon'ble Court giving complete quietus in respect of all the claims as between the appellants and the respondents pertaining to the said property.

NOW THIS MEMORANDUM OF COMPROMISE BETWEEN THE APPELLANTS AND THE RESPONDENTS IS HEREBY IS REDUCED INTO WRITING AS FOLLOWS:-

1. That the property being Old No. 17, New No. 36, Subramanian Salai, Perumbur, Chennai-11 and land of an extent of 2989 square-feet and at the time of purchase of the said property bearing Door No. 54, Thulasingham Mudali Street, Perumbur, Chennai comprised in Old Survey No. 153, Resurvey No. 422 bearing Collector Certificate No. 124 shall be sold to any 3rd party prospective purchaser.

2. It is hereby mutually agreed between the parties that the property shall be sold on the highest market value, proceeds shall be divided equally in the following manner:

2.1 The 1st Party shall take one share in the sale proceeds accruing out of the sale of the said property.



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2.2. *The 2nd Parties shall collectively take one share in the sale proceeds accruing out of the sale of the said property.*

2.3. *The 3rd Party shall take one share in the sale proceeds accruing out of the sale of the said property.*

2.4. *The 4th Party shall collectively take one share in the sale proceeds accruing out of the sale of the said property.*

2.5. *The 5th the Party shall take one share in the sale proceeds accruing out of the sale of the said property.*

3. *The Respondent shall not have any claim in respect of the said property based upon the alleged the Settlement Deed dated 26-12-2008, registered as Doc No.4784 of 2008 on the file of the Sub-Registrar Purasaiwalkam and the said Settlement Deed dated 26-12-2008 shall not binding upon the Appellants. The 3rd, 4th and 5th Parties hereby affirm that the Judgment and Decree passed by the Learned XV Asst City Civil Court in O. S. No. 6100 of 2013 dated 24-08-2016 shall hereby rendered inoperative and the same shall not be acted upon by the parties at any point of time.*

4. *That the present compromise arrayed between the parties in respect of division of the said sale proceeds accruing out of the said of the said property shall be binding upon the parties and shall not be for any reason whatsoever revoked or any manner altered by the parties at any point of time in future.*

5. *The parties shall act upon the aforesaid compromise effectively and shall not in any manner effect any alter the mode or method of compromise arrived between the parties by this Memorandum of Compromise.*

6. *The parties hereby expressly agreed that the present terms of compromise shall be effected within a period of 6 months or at the earliest*



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possible time taking into consideration the best interest of all the parties herein.”

2. Recording the aforesaid memo, this Original Side Appeal is closed as settled in terms of this order. No costs. Connected miscellaneous petition is closed.

[A.S.M., J] [N.S., J]
01.08.2025

Index: Yes/No
Neutral Citation: Yes
ssm

To

The Sub Assistant Registrar,
Original Side,
High Court, Madras.



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and
N.SENTHILKUMAR, J.

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