



AS No.692 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**
and
THE HONOURABLE MR.JUSTICE **C.KUMARAPPAN**

A.S.No.692 of 2017
and CMP Nos.22260 and 22261 of 2017

K. Krishnan

... Appellant

Vs

1. R. Kavitha

2. Varuthayee

3. G. Kavitha

... Respondents

Prayer: This appeal is filed under Order XLI Rule 1 and 2 read with Section 96 of the Code of Civil Procedure, to set aside the judgment and decree dated 17.08.2017 made in OS No.55 of 2011 on the file of the II Additional District Court, Salem.

For Appellant : Mr. T.L.Thirumalaisamy

For Respondents : Ms. P.Veena Suresh, for R1

Mr.Shabeer Ali
for M/s.Sarvabhauman Associates
for R3



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JUDGEMENT

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

The appellant and the first respondent are present. Pending the Appeal the parties have entered into a compromise and a Memorandum of compromise has been filed. It is signed by the appellant and the first respondent, who are the parties to the Agreement of Sale dated 29.05.2010.

2. It is seen from the judgment of the Trial Court that the respondents 2 and 3 had staked an independent claim and the Trial Court has dismissed the suit on the ground that the second respondent would be entitled to a share in the property and that was sold to the third respondent. As per the finding of the Trial Court, the second respondent was found entitled to 1/20th share. The second respondent has filed an Appeal claiming 5/20th share.

3. Hence the compromise is recorded only between the appellant and the first respondent. There will be a decree in terms of the compromise in the Appeal. It is made clear that the compromise will not



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affect the rights of the respondents 2 and 3 in the Appeal filed by the third respondent. This Appeal is dismissed against respondents 2 and 3.

4. In view of the same, the compromise is recorded the Appeal will stand disposed of in terms of the compromise. The Memorandum of Compromise shall form part of the decree. In view of the judgment of the Hon'ble Supreme Court in *High Court of Judicature at Madras Represented by its Registrar General vs. M.C.Subramaniam and others*, reported in (2021) 3 SCC 560, there will be a direction to re-fund the entire Court fee paid in this Appeal to the appellant. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

(R.SUBRAMANIAN, J.) (C.KUMARAPPAN, J.)
30.01.2025

jv

Index : No
Speaking order
Neutral Citation: No



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To
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1. The II Additional District Judge,
Salem.
2. The Section Officer,
V.R. Section,
Madras High Court, Chennai 104.



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R.SUBRAMANIAN, J.

and

C.KUMARAPPAN, J.

jv

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