

IN THE COURT OF SUBORDINATE JUDGE, DHARAPURAM.

PRESENT: Sri.M.DHARMAPRABU, M.A., M.L.,

Subordinate Judge, Dharapuram

Monday, the 20th day of March, 2023

O.S. No. 51 of 2022 with I.A. No. 2 of 2023

Angumanikam

... Plaintiff

Vs.

1. Kittusamy

2. Sakunthala

3. Magudeeswaran

4. Ponnusamy

5. Susila

6. Amsaveni

... Defendants

The suit having been heard in the presence of Shri.R. Muruganatham, Counsel for the Plaintiff, and Shri.S. Krishnakumar, Counsel for all the Defendants and the case having stood over for my consideration till this day, I delivered the following

J U D G M E N T

The Plaintiff filed the suit for partition and separate possession of $\frac{1}{4}$ share.

2. Crux of the plaint is as follows:

The suit properties belonged to Arumuga Thevar, S/o. Muthu Thevar by the virtue of a partition deed dated 25.04.1958 in which 'B' schedule was allotted to him. He died *intestate* before 20 years leaving his four sons Muthusamy Thevar, Perumal Thevar, Ramasamy Thevar and Kittusamy Thevar.

His wife Pappammal predeceased him. His another son Nachappa Thevar died without issues and marriage. The said Muthusamy Thevar died before 15 years and his wife Rasathi died on 22.08.2014 leaving the plaintiff as legal heir. The said Perumal Thevar died before 10 years and his wife Pappakkal died before 12 years leaving his only son Ganesan who also died on 13.12.2018 leaving the defendants 2 and 3. The said Ramsamy Thevar died before 15 years and his wife predeceased him leaving the defendant 4 to 6 a legal heirs. The said Kittusamy Thevar is the 1st defendant in the suit. The suit properties are jointly enjoy by the plaintiff without any partition. Since the joint possession was not feasible, the plaintiff demanded for partition on 10.08.2021 but the defendants refused. The defendants also tried to make encumbrance over the suit property and hence the suit.

3. Gist of the Written Statement is as follows:

The relationship and the share fraction stated in the plaint are admitted. The plaintiff approached the defendants seeking for allotment of fertile portions in his favour which was not accepted by the defendants. The defendants are even now ready to divide the properties. Hence, the suit is liable to be dismissed.

4. During the pendency of the suit, the parties jointly filed a petition in IA.No. 2 of 2023 under Order 23 Rule 3 of the Code seeking for passing a Compromise Decree. According to the said petition, they have arrived at a Compromise and the 'A' schedule properties are allotted to the plaintiff, the 'B'

schedule schedule properties are allotted to the defendants 2 and 3, 'C' schedule properties are allotted to the defendants 4 to 6, and the 'D' schedule property is allotted to the 1st defendant and the 'E' schedule property has been kept as common properties. The parties prayed for passing a Compromise decree as per the above terms of Compromise.

5. Now the point to be determined is as to whether the compromise decree could be passed as per the petition.

6. Heard both sides and carefully considered the rival submissions urged by either side and perused the records.

7. The Scheme of Order 23 Rule 3 of the Code is to avoid multiplicity of litigation and permit parties to amicably come to a settlement which is lawful, is in writing, and a voluntary act on the part of the parties. The Court can be instrumental in having agreed compromise effected and finality attached to the same as held by the Hon'ble Supreme Court in ***Triloki Nath Singh v. Anirudh Singh, (2020) 6 SCC 629.***

8. This court examined all the parties to suit to deposed before the court in accordance with the Compromise petition.

9. The statement of the parties are also considered. Under provisions of Order 23 Rule 3 of the Code, the Court must order a compromise to be recorded where it is proved to its satisfaction that a suit had been adjusted wholly or in part by any 'lawful agreement or compromise'. The above

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examination of the parties would show that the terms of compromise are not unlawful.

10. Considering the above facts and the circumstances of the case, this court is inclined to pass a compromise decree as prayed for. Accordingly, the point is answered.

11. In the result, the compromise decree is passed as follows:

- (a) that the 'A' schedule property is allotted to the plaintiff,
- (b) that the 'B' schedule property is allotted to the defendants 2 and 3,
- (c) that the 'C' schedule property is allotted to the defendants 4 to 6,
- (d) that the 'D' schedule property is allotted to the 1st defendant,
- (e) that the 'E' schedule property is allotted is Common properties to both the parties, and
- (f) that the Petition in I.A. No. 2 of 2023 shall form part of the decree,
- (g) that that there is no costs.

Dictated to Steno-Typist, directly typed by her in the Computer, edited and prepared by me in my Laptop and pronounced by me in the Open Court on this the 20th day of March, 2023.

SUBORDINATE JUDGE,
DHARAPURAM.