

Civil Suit No.462 of 2013**V.RAMASUBRAMANIAN,J.**

In view of the order passed by me in A.No.6385 of 2013, the plaintiff on the one hand and the defendants 4 to 7 on the other hand, have entered into a compromise. The compromise memo reads as follows:

**"MEMO OF PART COMPROMISE ENTERED
INTO BETWEEN THE PLAINTIFF AND
THE DEFENDANTS 4 TO 7**

The plaintiff and the defendants 4 to 7 herein respectfully submit as follows:

1. The Plaintiff and defendants 4 to 7 state that:

(a) The above suit has been filed by the plaintiff seeking for specific performance of the Agreement of Sale dated 20.07.2007 entered into between the Plaintiff and the first Defendant represented by its Partners, on payment of the balance sale consideration of Rs.1,34,44,000/- and with an alternative relief.

(b) The subject property described in the schedule to the plaint is owned by the first defendant partnership firm, represented by its partners two and three hereunder. The defendants four to six, though not partners of the firm, are the legal heirs of the deceased Mr.Nagaraj, the erstwhile partner of the first defendant herein. The seventh defendant is appointed as the Power Agent by the defendants' four to six, who had in turn entered into a Sale Agreement dated 18.12.2012 with the eighth defendant in respect of the suit schedule property, registered as Doc.No.2538 of 2012. The ninth defendant does not have any right in the property and has been joined only for a better adjudication as he, being the husband of the third defendant, had been mediating in respect of

the sale by the first defendant, represented by its partners defendants two and three hereunder.

(c) The first defendant was constituted under a Partnership Deed dated 14.07.2004 which was re-constituted under a Deed of Reconstitution dated 09.07.2009, after the death of one of the partners, Mr.Nagaraj.

(d) The defendants four to six had also filed O.S.No.1643 of 2011 against the defendants two and three herein, on the file of the Hon'ble First Assistant Judge, City Civil Court, Chennai, seeking for permanent injunction in respect of the suit schedule property on the contention that they own 3/4th share over the same.

2. The defendants four to eight have also cancelled the Sale Agreement dated 18.12.2012, where under the eighth defendant had agreed to purchase the suit schedule property. The cancellation deed dated 24.09.2013 is also registered as Document No.2291 of 2013, on the file of the Sub Registrar Office, T.Nagar. As such, the eighth defendant does not have any further interest or right in respect of the suit schedule property. As such the plaintiff is not pressing the suit claim as against the eighth defendant and the suit may be dismissed as against the said eighth defendant.

3. The plaintiff and the defendants four to seven have entered into a partial compromise of the suit claim and hereby reduce the same into writing as a Memo for filing before this Hon'ble Court, seeking to record the partial compromise and to enable the plaintiff to prosecute the suit and seek a decree for specific performance as prayed for as against the Defendants 1 to 3 and 9, in furtherance to the partial compromise as per the terms and conditions set forth hereunder.

(a) The plaintiff shall be entitled for the specific performance of the Agreement for Sale dated 20.07.2007 and entitled to purchase the suit schedule property by prosecuting the above suit as against the defendants one to three herein.

(b) The fourth defendant for herself and as the natural guardian of the defendants five and six doth hereby confirm that they do not have any objection for the sale of the suit schedule property in favour of the plaintiff and concur with the rights of the defendants one to three herein for the conveyance of the suit property in favour of the plaintiff.

(c) The fourth defendant hereby confirms and declares that from and out of the funds provided by the plaintiff a sum of Rs.6,18,922/- each is deposited in the names of the defendants five and six and the details are provided herein below to secure their interest and the said sum by way of deposit in the names of the minor defendants five and six shall continue to be in deposit till they attain majority.

(i) Term Deposit of Rs.6,18,922/- in the name of the Master PRANAV K N, represented by mother and natural guardian, Mrs.N.Sridevi, with State Bank of India, Saligramam Branch, No.49, Arcot Road, Chennai 600 093.

(ii) Term Deposit of Rs.6,18,922/- in the name of the Master ADITYA NAGARAJ, represented by mother and natural guardian, Mrs.N.Sridevi, with State Bank of India, Saligramam Branch, No.49, Arcot Road, Chennai 600 093.

(d) The fourth defendant for herself and as the natural guardian for the minor defendants five and six hereby further confirm and declare that henceforth the seventh defendant is no more their Power Agent and he has nothing to do on her behalf, as

the Sale Agreement executed by the seventh defendant as her Power Agent in favour of the eighth defendant had already been cancelled by way of registered document as stated above and as such, the eighth defendant has no right or interest over the suit property.

(e) The seventh defendant hereby declares and confirms that he has not created any encumbrance or alienation on the suit property pursuant to the Deed of Power of Attorney executed in his favour by the Defendants' four to six herein. The seventh defendant also confirms and declares that henceforth he is no more the Power Agent and he does not have any claim over the suit property.

(f) The fourth defendant for herself and as the natural guardian for the minor defendants five and six hereby further confirm and declare that they shall not press the suit in O.S.No.1643 of 2011 filed as against the defendants two and three herein, on the file of the Hon'ble First Assistant Judge, City Civil Court, Chennai and the suit will be withdrawn.

(g) The plaintiff further declares and confirms that at the instance and request of the Defendants four to seven, he had also made a payment of Rs.35,00,000/- (Rupees thirty five lakhs only) to them as per details provided here under.

(i) Rs.25,00,000/- (Rupees twenty five lakhs only) paid for refund of the advance amount to eighth defendant on cancellation of the Sale Agreement dated 18.12.2012.

(ii) Rs.10,00,000/- (Rupees ten lakhs only) paid to the fourth defendant.

(h) The plaintiff and the defendants four to seven hereby confirm and declare that all the covenants herein before provided

have been agreed upon on mutual consultation as a compromise of all the claims in the suit as against them and whereby the plaintiff is entitled to purchase the suit schedule property from the defendants one to three herein being confirmed by all other defendants.

(i) The defendants four to seven further declare and confirm that they do not have any claim whatsoever against the plaintiff and discharge the plaintiff of all the obligations as against them and confirm that the plaintiff shall be entitled to record part compromise and further prosecute the suit as against the defendants 1 to 3 herein.

(j) The plaintiff and the defendants four to seven hereby confirm and declare that the plaintiff shall be entitled for all the original title deeds in respect of the suit schedule property and also confirm having delivered to the plaintiff the original power of attorney, sale agreement and cancellation deed, etc. and the plaintiff hereby acknowledge the receipt of the said documents.

(k) The defendants four to seven further hereby declare, confirm and undertake that the plaintiff shall be entitled for specific performance and on execution and registration of the sale deed in respect of the suit schedule property and the defendants four to seven shall execute necessary letters, deeds, confirmation, application, consent affidavit etc., for the purpose of effective mutation of revenue records in favour of the plaintiff.

The Plaintiff and Defendants four to seven herein have signed this Part Memorandum of Compromise and agreed to file the same before this Hon'ble Court, seeking for recording partial compromise and permit the plaintiff to prosecute the suit as

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against the other defendants seeking for a decree as prayed for and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

Dated at Chennai on this the 9th day of January 2014."

2. The compromise memo is taken on record. Post the suit for further process.

09.01.2014.

kpl

C.S.No.462 of 2013.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2014

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THE HON'BLE MR.JUSTICE V.RAMASUBRAMANIAN

Civil Suit No.462 of 2013

S.Ramesh .. Plaintiff

Vs.

1. M/s. Rajini "K" Constructions
rep. by its Partners
New No.5, Appu Street 2nd Lane
Mylapore, Chennai 600 004.

2. K.Rajini

3. B.Sasikala

4. Sridevi Nagaraj

5. Master N.Pranav (Minor)

6. Master N.Aditya (Minor)
(Minors rep. by their mother and
natural guardian Sridevi Nagaraj)

7. R.Subramani

8. P.Veerassamy

9. S.J.Bhaskar .. Defendants

Plaint under Order VII, Rule 1, CPC, read with Order IV, Rule 1 of
Original Side Rules.

For Plaintiff : Mr.Omprakash
For M/s. Ramalingam & Associates
For Defendants 4-7 : Mr.S.Rajendra Kumar
