

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.280 OF 2008

B. Vasudeva Rao

Appellant(s)

Versus

B. Srinivasa Rao and Others

Respondent(s)

O R D E R

This Court on 14th January, 2016, had passed the following order:

"Heard Mr. Singh, learned senior counsel along with Mr. V.N. Raghupathy, learned counsel for the appellant and ms. Kiran Suri, learned counsel for the respondent.

Be it noted, the respondents are legal heirs of B. Srinivasa Rao, brother of B. Vasudev Rao. It is submitted by Mr. Singh and Ms. Suri that the parties have almost arrived at a settlement but certain marginal disputes are to be finalised.

In view of the aforesaid, we direct the parties to appear before the learned Civil Judge (Sr. Division), B.C. Road, Mangalore on 08.02.2016 and file the settlement. While producing the settlement, they shall remain personally present through counsel who shall identify them and the learned Civil Judge, being satisfied, shall record the settlement. The learned Civil Judge is directed to send the settlement, if any, to the Registry of this Court so that appropriate orders can be passed by this Court.

Mr. Singh and Ms. Suri, learned counsel for the parties undertake before this that the parties will appear before the learned Civil Judge with the order passed by this Court."

In pursuance of the aforesaid order, the parties have appeared before the learned Civil Judge, who has sent a report dated 9th February, 2016. The said report reads as follows:

"With reference to the above subject, I write to submit that as per the direction of Hon'ble Apex Court in Civil Appeal 280/2008, the parties to the proceedings appeared through their counsel on 08/02/2016, submitted the compromise petition under Order 23 Rule 3 of C.P.C., to record the same and submit before the Hon'ble Apex Court. Accordingly, this Court on 08/02/2016, recorded the statement in the open court after reading over the contents to them, and found that the compromise Agreement under Order 23 Rule 3 to be placed before the Apex Court is as per the order dated 14/01/2016. The parties are duly represented and identified by their respective counsel. Hence, I submit the compromise petition, copy of the Misc. Petition filed for recording the compromise and Sketches, Affidavit filed by the parties and also typed copy of Order sheet and also copy of the Regular Order sheet for kind perusal of the Bench. The matter now stands posted to 24/02/2016 before the Apex Court for awaiting report of the settlement recorded by this Court."

The compromise agreement under Order 23 Rule 3 is to the following effect:

"Compromise Agreement filed under Order 23 Rule 3 and Section 151 of Civil Procedure Code

It is submitted as follows:

At the instance of well-wishers the disputes between the parties is settled as here under.

NOW, THIS AGREEMENT WITNESSETH AS FOLLOWS

THAT, Lrs. Of the respondent No.1, shall submit an application for withdrawing the application Form 7 seeking occupancy rights which is numbered as TNC No.73/78-79 before Land Tribunal Bantwal before this court (honourable Supreme Court of India).

THAT, in pursuance of the above, by doing the needful act by the parties, the Khata/RTC relating to the subject mater of the writ petition, which is mutated in the name of Late Dr. B. Srinivasa Rao, as per Mutation Record number 538, Transaction number 554/2006-2007 on the file of Tahsildar, BantwalMuda village shall be mutated/re-transferred in the name of the Appellant by producing the copy of this compromise petition/court order.

THAT, the Appellant shall transfer in any of the modes desired by the Respondents, a total extent of 0-99.5 acres of which 0-31 acres shall in S.No.74/1 and 0-68.50 acres in S No.74/7B3A1B1 (part 1) of BantwalMuda village which is fully described in the Sketch annexed to this compromise petition to the Respondents jointly at the Respondent's cost within one month from the date of mutation of the Revenue records of the properties in the name of Appellant and also by complying to the conditions set herewith.

THAT, as agreed and in pursuance of this compromise petition, the Appellant has put the Respondents, in actual possession for the properties, which is agreed to be transferred as detailed above, this way and the Respondents have taken actual possession of the same.

THAT, out of the entire extent of the Schedule property, the remaining extent of land in respect of which, declaration has been submitted, continue to be under the ownership and in the actual possession of the Appellant, which fact the Respondents agree and admit.

THAT, the Respondents on transfer of Khata and possession of the Schedule properties shall have no manner of right on it or any portions of it.

THAT, the Appellant hereby agrees to provide user right of way over his property to the Respondents

as shown in the Sketch, to enable them to find access to the land which is going to be transferred to them by the Appellant as above. The total extent of land over which the right of way will be given by the Appellant to the Respondents shall not exceed 0-02 acres. The Respondents will have only user right of way and the ownership of the property will however continue with the Appellant.

THAT, the Respondents shall make use of the user right of way without causing hindrance/obstruction to other users of the passage.

THAT, the Respondents shall pay and clear up all the dues, assessment, if any due to the concerned authorities before getting the properties transferred in their name.

THAT, with the transferring of 0-99.5 acres of land to the Respondents by the Appellant, after his getting the entire schedule property, the parties herein, shall be owners of their respective portions.

THAT, the manner in which the Respondents are going to get the portion of the Schedule property which they are going to acquire as above, distribution amongst themselves shall be their responsibility.

THAT, once the portions of the Schedule properties are distributed as above between the Appellants and the Respondents, they shall be absolute owners of their respective portions and they shall be free to deal with the same in any manner of their choice.

THAT, the Schedule properties and portions thereof are as per the enclosed sketches.

THAT, the parties hereto shall cooperate with each other and also sign all applications, affidavits, papers etc. required for giving effect to all the intentions set herein. Even otherwise, the parties are at liberty to give effect to the terms of this compromise, by producing, the copy of this compromise petition before the concerned authorities.

THAT, the Parties hereby undertakes to report this settlement to the honorable Supreme Court and shall admit and agree the same, in order to give effects to the intentions detailed herein.

THAT, once this agreement comes into force after getting the sanction of the honorable Supreme Court of India by way of disposal of Appeal number 280/2008 as settled in compromise between the parties, the dispute relating to the Schedule properties between the Appellant and the Respondents shall be treated as decided finally and none of the parties shall dispute further in the matter or any parts thereof before any authority.

THAT, this compromise petition is filed before this court, as per the directions issued by the honorable Supreme Court.

THAT, the Respondents hereby declare and assure that the properties mentioned in this agreement is not in any way encumbered, charged, mortgaged to anyone, including financial institutions, scheduled banks, and assured that it is free from all types of encumbrances, charges, court orders, injunctions etc.

CONDITIONS to be fulfilled by the Respondents before getting the properties registered jointly in the names of the Respondents as set above.

1. THAT, the illegal structures constructed in the portion of property bearing Survey number 74/7B3A1Bp1 and 73/B3-p1, shall be removed by the Respondents at their costs.

2. THAT, the Boothadakallu/katte shall be removed from the property bearing Survey number 73/B3-p1 shall be removed by the Respondents at their costs.

3. THAT, the Respondents shall shift the open storm water drain running the portion of the Schedule property to the periphery of the property at their costs.

In case of default in the performance of the above conditions, the Appellant is entitled to initiate proceedings for contempt apart from executing these terms by treating this compromise as a decree at his choice.

SCHEDULE

#	Survey Number	Extent Acres	Remarks
1	37/*/1A(p1)	0-17.0	On the eastern side of the road to the Railway Station, Bantwal, as per Sketch 3
2	40/*/2A(p1)	1-09.0	On the path the Water Tank, portion acquired by Water Supply Board, as per Sketch 5
3	73/*/B3-p1	0-06.0	Western side of the property, as per Sketch 1 and 2
4	74/*/1	0-33.0	Western side of the property before 73/*/B3-p1, as per Sketch 1 and 2
5	74/*/2	0-32.0	Southern portion as per Sketch 2
6	74/*/3(P1)	0-07.0	Usage right provided to access to adjacent property, as per Sketch 2
7	74/*/7B3A1B (P1)	1-71.0	Northern side of the property as per Sketch 1 and 2
8	74/*/8	1-14.0	Central portion of the property as per Sketch 2
9	228/*/1A(P1)	0-76.0	South Western portion from Water Tank, per Sketch 4

Enclosures

- Sketch No.1 - Highlighting the 0-99.5 acres of the land, which will be transferred by the Appellant to the Respondents jointly, in pursuance of this compromise agreement.
- Sketch No.2 - Highlighting the 2-88.5 acres in S No.74/1, 74/2, 74/3(p1), 74/7B3A1Bp1 and 74/8.
- Sketch No.3 - Highlighting the 0-17.00 acres in S No.37/1Ap1.
- Sketch No.4 & 5 - Highlighting 2-23.00 acres in S No.228/1 Ap1, 228/1Ap2, 40/2Ap1 and 40/2Ap2.

In respect of the properties covered in Sketches 2 - 5, the claim made by the original Respondent and continued by the present Respondents, the claim is withdrawn and the Respondents admitted that these lands are under the ownership and actual possession

of the Appellant.

In witness thereof, the Parties hereto have signed this Compromise Agreement in the presence of witnesses signed here below on this 8th day of February 2016.
Bangalore/B C Road/New Delhi."

Be it stated, the compromise agreement also contains certain sketches. They shall also form a part of the compromise petition. As submitted by the learned counsel for the parties, the petition for compromise should be accepted and be treated as a part of the decree.

Resultantly, the petition for compromise is accepted, along with the annexures and the sketches filed therewith and that shall be treated as a part of the decree passed by this Court.

The appeal is disposed of in the above terms. There shall be no order as to costs.

.....J.
(Dipak Misra)

.....J.
(Shiva Kirti Singh)

New Delhi;
February 25, 2016.

ITEM NO.105

COURT NO.4

SECTION IVA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.280 of 2008

B.VASUDEVA RAO

Appellant(s)

VERSUS

B.SRINIVASA RAO (D) BY LRS. & ORS.

Respondent(s)

(With appln. (s) for permission to file additional documents and exemption from filing O.T.)

Date : 25/02/2016 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE SHIVA KIRTI SINGH

For Appellant(s) Mr. S.R. Singh, Sr. Adv.
Mr. Anurag Tomar, Adv.
Mr. Anilendra Kant Srivastava, Adv.
Mr. B.V. Bharderkee, Adv.
Mr. H.K. Naik, Adv.
Mr. V. N. Raghupathy, AOR

For Respondent(s) Ms. Kiran Suri, Sr. Adv.
Mr. S.J. Amith, Adv.
Dr. (Mrs.) Vipin Gupta, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal is disposed of in terms of the signed order.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Court Master

(Signed order is placed on the file)