

In the High Court of Judicature at Madras

Date: 25/6/2004

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The Honourable Mr. Justice P.D.DINAKARAN
and
The Honourable Mr. Justice N.KANNADASAN

O.S.A. No. 7 of 1999
and
O.S.A. No.8 of 1999

1.N.Neelakantan
2.Dr.N.Rajagopal
3.Mrs.Rajalakshmi Gopalakrishnan Appellants in
both Appeals.

-Vs-

1.Mrs.Nirmala Sethuraman
2.S.Ravichandran Respondents in
both Appeals.

for appellants :: Mr.P.Subba Reddy
for respondents :: Mr.K.Chandramouli, senior
counsel for Mr.S.Viswanathan

:JUDGMENT
(Judgment of the Court was delivered by
P.D.DINAKARAN, J.)

These appeals are directed against the order dated 9.9.96 made in T.O.S.Nos.27/88 and 27/91. In T.O.S.No.27/88 the Will dated 7.9.87 was disbelieved. In T.O.S.No.27/91 the Will dated 14.9.84 executed by Venkatalakshmi Ammal in favour of the respondents were found to be true and valid. Hence these appeals.

2. Pending the above appeals, both the appellants and the respondents have entered into a compromise and also reduced the same into writing by way of memorandum of compromise dated 25.6.2004, which reads as follows:

1.The respondents are absolutely entitled to the suit property viz., No.57 (now New No.50) Alamelumangapuram, Mylapore, Chennai-5 as per the Will of Smt.Venkatalakshmi ammal dated 14.9.84 and that the appellants have no right or claim whatsoever except as stated in para 2.

2.The respondents shall pay in full and final settlement a sum of Rs.40,00,000/- (Rupees forty lakhs only) to the appellants in lieu of the amount payable under Ex.D-1 Will dated 14.9.84 executed by Venkatalakshmi Ammal. The said sum shall be paid in the following manner.

3.The respondents have deposited into court a sum of Rs.4,000/- every month as per the direction of this Hon'ble Court to the credit of C.S.No.906 of 1987.

Part of the same is deposited in fixed deposit in Andhra Bank, Mowbrys Road Branch and Tamilnadu State Apex Cooperative Bank Ltd., Sastri Nagar, Chennai and the balance of Rs.1,12,000/- is in court deposit. The total amount exceeds Rs.8 lakhs. The appellants are entitled to draw all the aforesaid 3 sums including interest. The respondents hereby give their consent for withdrawal of the said amount by the appellants.

4.The respondents shall pay a sum of Rs.11 lakhs within a period of three months from today and a further sum of Rs.11 lakhs within a period of six months from today. The balance of the amount, after giving credit to all the aforesaid sums, will be paid within a period of nine months from today. The

payment of the aforesaid amounts shall be a charge on the suit property. The payments should be paid by bank pay orders in the name of Dr.N.Rajagopal.

5.Since the 1st appellant is in the States, the counsel for the appellants undertakes to furnish into Court with copy served on the respondents, an affidavit of affirmation of the terms of this compromise.

6.The parties shall bear their respective costs."

3. In support of clause 5 of the above memorandum of compromise the respondents also produced a fax message obtained from the first appellant herein authorising his counsel and the other two appellants to enter into the memorandum of compromise. A clean copy of the fax message dated 23.6.2004 is also filed along with the memorandum of compromise. Since the above fax message, stated to have been sent by the first appellant, is addressed to the Court, learned counsel for the appellants are given time by one week to file a true copy of the fax message, addressed to appellants 2 and 3. In view of the terms of the fax message as well as the terms of the compromise, learned senior counsel appearing for the respondents requires the appellants to give a stamped receipt for the payment to be made by the respondents as per the terms of the compromise for which the appellants also agree as there cannot be any objection for such request and the appellants are directed to furnish the stamped receipt for the payment received. In that view of the matter both the appeals are disposed of in terms of the memorandum of compromise. Registry is directed to refund the amount in court deposit to the credit of C.S.No.906 of 1987 in terms of the above memorandum of compromise.

Post on 5.7.2004 for compliance.

25.6.2004
ns.