

HIGH COURT FOR THE STATE OF TELANGANA  
AT HYDERABAD

FRIDAY, THE THIRTIETH DAY OF APRIL  
TWO THOUSAND AND TWENTY ONE

PRESENT

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

I.A.NO.6 OF 2021

IN/AND

CITY CIVIL COURT APPEAL NO: 166 OF 2015

C.C.C.A.NO.166 OF 2015:

Appeal under Section 96 of CPC against the Judgment and decree dated 06.07.2015 in O.S.No.217 of 2008 on the file of the Court of the I Senior Civil Judge, City Civil Court at Hyderabad.

**Between:**

1. Mohammed Hussain, S/o Mohammed Sadaq Ali, aged about 65 years, Occupation: Pensioner, R/o H.No.20-4-239, Khilwat, Hyderabad.
2. Noor Jahan, W/o. Mohammed Hussain aged about 57 years, Occupation: Household, R/o. H.No.20-4-239, Khilwat, Hyderabad. (Died pr LR's Appellant Nos.3 to 10)
3. Mr. Mohd Masood Hussain, S/o. Mohammed Hussain Ali, aged 49 years, Occ: Private Employee, R/o. H.No.20-4-239, Khilwat, Hyderabad.
4. Mr. Mohd Mahmood Hussain, S/o. Mohammed Hussain, aged 47 years, Occ: Teacher, R/o. H.No.20-4-239, Khilwat, Hyderabad.
5. Mr. Mohd Maqsood Hussain, S/o. Mohammd Hussain, aged 45 years, Occ: Private Employee, R/o. H.No. 20-4-239, Khilwat, Hyderabad. Rept., by his Generakl Power of Attorney Mr. Maqdoom Hussain, S/o. Mohammed Hussain, aged about 41 years, Occ: Private Employee, R/o. H.No. 20-4-239, Khilwat, Hyderabad.
6. Mr. Mohd Mahboob Hussain, S/o. Mohammed Hussain, aged 43 years, Occ: Private Employee, R/o. H.No. 20-4-239, Khilwat, Hyderabad.
7. Mr. Maqdoom Hussain, S/o. Mohammed Hussain, aged 41 years, Occ: Private Employee, R/o. H.No. 20-4-239, Khilwat, Hyderabad.
8. Mr. Mohd Munawar Hussain, S/o. Mohammed Hussain, aged 45 years, Occ: Advocate, R/o. H.No. 20-4-239, Khilwat, Hyderabad.
9. Mr. Mohd Muzaffar Hussain, S/o. Mohammed Hussain, aged 45 years, Occ: Private Employee, R/o. H.No. 20-4-239, Khiwat, Hyderabad. Rept., by his Generakl Power of Attorney Mr. Maqdoom Hussain, S/o. Mohammed Hussain, aged about 41 years, Occ: Private Employee, R/o. H.No. 20-4-239, Khilwat, Hyderabad.
10. Smt. Azmat Jahan, W/o. Mohd. Abdul Hakeem, D/o. Mohammed Hussain, aged 61 years, Occ: Pension, R/o. H.No. 20-4-239, Khilwat, Hyderabad.

(Appellants 3 to 10 are brought on record as LRs of Appellant No.2, as per Court Order dated 29.04.2021 in I.A.No.3 & 4 of 2021 in CCCA.No.166 of 2015)

**...PETITIONERS/PROPOSED APPELLANTS 3 TO 10**

**AND**

Mohammed Ibrahim Ali, S/o Mohammed Sadaq Ali, aged about 61 years, Occupation: Pension, R/o portion of H.No. 20-4-239, Khilwat, Hyderabad.

**...DEFENDANT/PLAINTIFF**

**IA NO: 6 OF 2021**

Petition under Order XXIII Rule 3 R/w Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to allow the appeal bearing CCCA No. 166 of 2015 by setting aside judgment and preliminary decree dated 06/07/2015 passed in O.S.No.217 of 2008, on the file of the Court of I Senior Civil Judge, City Civil Court, Hyderabad by recording the above Terms of Compromise dated 01/04/2021.

**IA NO: 5 OF 2021**

Petition under Section 151 CPC R/w Rule 32 CRPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to permit the deponent/petitioner No. 7 herein to record the compromise in CCCA No. 166 of 2015 as General power of Attorney of petitioner No. 5 and 9.

**Counsel for the Appellants: SRI MIRZA NISAR AHMED BAIG**

**Counsel for the Respondent: SRI M. BASITH ALI YAVAR**

**The Court delivered the following: COMMON JUDGMENT**

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

I.A.No.6 of 2021

IN/AND

C.C.C.A No.166 of 2015

**COMMON JUDGMENT:**

This appeal is filed against the order dated 06.07.2015 passed by the I Senior Civil Judge, City Civil Court, In O.S.No.217 of 2008.

Heard learned counsel for the appellant and the learned counsel for the respondent. Appellant No.2 is no more, and her legal representatives were brought on record as respondents 3 to 10 vide order dated 29.04.2021 in I.A.Nos.3 and 4 of 2021 in this appeal.

I.A.No.6 of 2021 is filed praying the Court to record the compromise arrived at between the parties, and allow the appeal in the light of the compromise.

The appellants, except appellants 5 and 9 who are outside the country, are present before the Court today. Appellants 5 and 9, however, are represented by appellant No.7 who is their brother. Learned counsels for both the parties are also present before the Court and identified their respective clients. When queried by the Court, all the parties have agreed that they entered into compromise and settled the dispute amicably and the compromise has been reduced into writing and a Memorandum of Compromise has been filed along with I.A.No.6 of 2021. In terms of the compromise, the appellants have agreed to retain the property by paying monetary compensation to the respondents. The respondents have also acknowledged the receipt of the money by way of Demand Drafts as mentioned in the Memorandum of Compromise.

Accordingly, I.A.No.6 of 2021 is ordered, and the appeal is allowed in the light of the settlement arrived at between the parties under the Memorandum of Compromise, and the judgment of the trial Court in O.S.No.217 of 2008 is set aside. The Memorandum of Compromise shall form part of the record. Office to draw the decree accordingly in terms of the Memorandum of Compromise and shall also provide certified copy to both the parties on payment of prescribed charges. No costs. Miscellaneous petitions, if any pending, shall stand closed.

**//TRUE COPY//**

**Sd/- K.SRINIVASA RAO  
JOINT REGISTRAR**

  
**SECTION OFFICER**

**To,**

1. The I Senior Civil Judge, City Civil Court at Hyderabad.
2. One CC to Sri Mirza Nisar Ahmed Baig, Advocate [OPUC]
3. One CC to Sri M Basith Ali Yavar, Advocate [OPUC]
4. Two CD Copies
5. One Spare Copy

gbr



HIGH COURT

DATED: 30/04/2021

**COMMON JUDGMENT**

**I.A.NO.6 OF 2021  
IN/AND  
CCCA.No.166 of 2015**



**I.A. IS ORDERD AND CCCA IS ALLOWED IN TERMS  
OF THE MEMORANDUM OF COMPROMISE**

6 23/6/21  
19/6/21

HIGH COURT FOR THE STATE OF TELANGANA  
AT HYDERABAD

FRIDAY, THE THIRTIETH DAY OF APRIL  
TWO THOUSAND AND TWENTY ONE

PRESENT

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

I.A.NO.6 OF 2021  
IN/AND  
CITY CIVIL COURT APPEAL NO: 166 OF 2015

Between:

1. Mohammed Hussain, S/o Mohammed Sadaq Ali, aged about 65 years, Occupation: Pensioner, R/o H.No.20-4-239, Khilwat, Hyderabad.
2. Noor Jahan, W/o. Mohammed Hussain aged about 57 years, Occupation: Household, R/o. H.No.20-4-239, Khilwat, Hyderabad. (Died pr LR's Appellant Nos.3 to 10)
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5. Mr. Mohd Maqsood Hussain, S/o. Mohammed Hussain, aged 45 years, Occ: Private Employee, R/o. H.No. 20-4-239, Khilwat, Hyderabad. Rept., by his Generakl Power of Attorney Mr. Maqdoom Hussain, S/o. Mohammed Hussain, aged about 41 years, Occ: Private Employee, R/o. H.No. 20-4-239, Khilwat, Hyderabad.
6. Mr. Mohd Mahboob Hussain, S/o. Mohammed Hussain, aged 43 years, Occ: Private Employee, R/o. H.No. 20-4-239, Khilwat, Hyderabad.
7. Mr. Maqdoom Hussain, S/o. Mohammed Hussain, aged 41 years, Occ: Private Employee, R/o. H.No. 20-4-239, Khilwat, Hyderabad.
8. Mr. Mohd Munawar Hussain, S/o. Mohammed Hussain, aged 45 years, Occ: Advocate, R/o. H.No. 20-4-239, Khilwat, Hyderabad.
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10. Smt. Azmat Jahan, W/o. Mohd. Abdul Hakeem, D/o. Mohammed Hussain, aged 61 years, Occ: Pension, R/o. H.No. 20-4-239, Khilwat, Hyderabad.

(Appellants 3 to 10 are brought on record as LRs of Appellant No.2, as per Court Order dated 29.04.2021 in I.A.No.3 & 4 of 2021 in CCCA.No.166 of 2015)

...PETITIONERS/PROPOSED APPELLANTS 3 TO 10

AND

Mohammed Ibrahim Ali, S/o Mohammed Sadaq Ali, aged about 61 years, Occupation: Pension, R/o portion of H.No. 20-4-239, Khilwat, Hyderabad.

...DEFENDANT/PLAINTIFF

C.C.C.A.NO.166 OF 2015:

Appeal under Section 96 of CPC against the decree of the Court of the I Senior Civil Judge, City Civil Court at Hyderabad passed in O.S.No.217 of 2008.

**IA NO: 6 OF 2021**

Petition under Order XXIII Rule 3 R/w Section 151 CPC praying that the High Court may be pleased to pass a decree in terms of the Memorandum of Compromise filed therewith as between the appellants and respondents in the said Appeal No.166 of 2015 on the file of the High Court.

This appeal and miscellaneous petition coming this day for order as to settlement in the presence of Sri Mirza Nisar Ahmed Baig, Advocate for the appellant and of Sri M. Basith Ali Yavar, Advocate for the respondent, Appellants and respondent through, their respective Advocates having filed on I.A.No.6 of 2021 requesting the court to pass a decree in terms the memorandum of compromise entered into between them and upon perusing the grounds appeal, judgment and decree of the lower court and the memo of compromise purporting to have been signed by the parties and their Advocates and file with the said I.A.No.6 of 2021 and it appearing from the said memorandum of compromise that the parties herein have entered into compromise and settled the matter out of court in terms memorandum of compromise filed herein.

This Court DOTH RECORD the terms of the said memorandum of compromise in original where of is filed in the said I.A.No.6 of 2021 of and a copy whereof is annexed hereto and DOTH in terms of the said memorandum of compromise declare ORDER and DECREE as follows:

**MEMORANDUM OF JOINT COMPROMISE**

**WHEREAS**, Appellants No.1 and Respondent herein are real and own brothers. That Appellant No.2 to 9 are legal heirs and successors of Late Smt Noor Jehan W/o Mohammed Hussain.

**WHEREAS** MOHAMMED SADIQ ALI (Late) was the absolute owner and peaceful possessor of premises bearing H. No. 20-4-239, admeasuring 273.09 Square yards or 228.32 Square meters situated at Khilwat, Hyderabad (More Particularly described in as 'Schedule Property' for the sake of brevity and repetition). During his life time Mohammed Sadiq Ali (Late) transferred the 'Schedule Property' in favour of his elder son Mohammed Hussain i.e.,

Appellant No.1 herein by virtue of Oral Hiba in the presence of (2) witnesses and delivered the physical possession there and then. Appellant No.1 accepted the gift (oral hiba) and received the physical possession of the '**Schedule Property**'. Subsequently Appellant No.1 out of his love and affection gifted the '**Schedule Property**' to his wife Smt Noor Jahan who is appellant No.2 herein by virtue of registered Gift Settlement Deed bearing document No. 341/2004 dated 12-03-2004, got registered at Sub Registrar Charminar.

WHERAS by virtue of the above mentioned registered Gift Settlement Deed Smt Noor Jahan has become the absolute owner and peaceful possessor of premises bearing H. No. 20-4-239, admeasuring 273.09 Square yards or 228.32 Square meters situated at Khilwat, Hyderabad. However, respondent herein by suppressing the above mentioned facts instituted suit bearing OS No. 217 of 2008 on the file of the Hon'ble 1 Senior Civil Judge, City Civil Court at Hyderabad against appellant No.1 alone seeking the relief of Partition and separate possession of schedule property.

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**WHEREAS** subsequently Smt Noor Jehan was impleaded as respondent No.2 in the original suit as proper and necessary party to the suit as such the suit schedule property was in her name and under her enjoyment.

**WHEREAS** the Hon'ble I Senior Civil Judge, City Civil Court at Hyderabad was pleased to pass a Preliminary Decree dated 06.07.2015 in the above mentioned suit, by allotting (2) equal share of schedule property in favour of both the parties respectively. Aggrieved by Preliminary Decree appellant No.1 and 2 preferred an appeal before the Hon'ble High Court bearing CCCA No. 166 of 2015 which is pending adjudication.

**WHEREAS**, while things stand so the appellant No.1 has filed suit bearing OS No. 19 of 2017 pending on the file of the Hon'ble IV Addl. District and Sessions Judge at Siddipet against the respondent herein seeking the relief of Partition and separate possession of property bearing old Municipal No.12-3-122/1, New No. 12-3-393, admeasuring 460 Square yards, situated at Khaderpura, near Eidghah Shareef, Siddipet District, Telangana.

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**WHEREAS** during the pendency of CCCA No. 166 of 2015 Smt Noor Jehan passed away on 03-10-2019 leaving behind appellants No.1 to 9 as only surviving legal heirs and successors to the Schedule Property.

**WHEREAS**, while so the both the parties upon intervention of relatives, well wishers, family and friends have agreed to jointly and severally settle the above mentioned civil disputes pending adjudication for the relief of Partition of Schedule properties in the Partition Suits between them. Appellants and respondent herein have unilaterally, unequivocally, jointly and severally, without any undue influence, force or coercion from any person whatsoever, with their free will and consent reduce the terms of the compromise as agreed between them in this present.

**MEMORANDUM OF COMPROMISE WITNESSETH AS FOLLOWS:**

- 1) That in lieu of this compromise the respondent herein shall withdraw his claim over suit schedule property in whatsoever manner.

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- 2) That the respondent herein specifically agreed to get recorded the compromise by getting set aside the impugned preliminary decree dated 06.07.2015 passed in OS No.217 of 2008 on the file of Hon'ble I Senior Civil Judge, City Civil Court at Hyderabad which is the subject matter of City Civil Court Appeal bearing No.166 of 2015 on the file of the Hon'ble High Court at Hyderabad as null and void.
- 3) That Appellant No.1 has already entered in compromise with respondent herein and relinquished his rights in property bearing old Municipal No.12-3-122/1, New No. 12-3-393, admeasuring 460 Square yards, situated at Khaderpura, near Eidghah Shareef, Siddipet District, Telangana which is subject matter of O.S. No. 19 of 2017 pending on the file of IV Addl. District and Sessions Judge at Siddipet.
- 4) That the appellants has agreed to pay a total amount of Rs.10,00,000/- (Rupees Ten Lakhs Only) to the

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respondents herein in lieu of this compromise to withdraw his claim over the schedule property.

5) That the appellants will pay an amount of Rs. 10,00,000/- (Rupees Ten Lakh Only) to the respondents at the time of recording the compromise in the CCCA No.166 of 2015 on the file of the Hon'ble High Court by mutually presenting a petition for compromise. The amount will be paid through **DD No. 780950 dated 05.11.2020** for an amount of **Rs. 5,00,000/-** (Rupees Five Lakhs Only) and **DD No. 780951 dated 05.11.2020** for an amount of **Rs. 5,00,000/-** (Rupees Five Lakhs Only) both can be drawn at Syndicate Bank, Jahanuma Branch, Hyderabad-500053 before the Hon'ble High Court.

6) That this amount of Rs.10,00,000/- through above demand drafts are paid towards full and final settlement to the respondent herein by the

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appellants. The respondents herein relinquished all his rights, claims in schedule property.

7) That the appellants from the date of recording the compromise becomes the absolute owner, peaceful possessor and title holder of the entire schedule property i.e., property bearing H. No. 20-4-239, admeasuring 273.09 Square yards or 228.32 Square meters situated at Khilwat, Hyderabad. The respondent herein acknowledges the same and keep indemnifies the appellants against any claims made by him, or his legal heirs, successors, executors, assignees, representatives, appointees etc in future.

8) That the appellants shall have absolute and unfettered rights to sell, gift, mortgage, alienate, lease or use the entire schedule property as its absolute owner or dispose of the same as per his whims and fancies

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9) That both the Parties jointly and severally agreed not to file any civil or criminal cases against each another over the subject properties or claims of money, share, Partition or whatever nature in the future and are thus, completely satisfied with terms reduced in this present.

10) That the respondent herein keep indemnified the Party of the appellants against any losses, charges, lien, mortgage, payment of dues, balances etc., with respect to the schedule property in view of this deed of compromise.

11) That both the Parties and their counsels shall co-operate with each other in getting the compromise recorded in CCCA No.166 of 2015 on the file of Hon'ble High Court at Hyderabad, in view of this compromise, by signing the memorandum of compromises, by appearing in person on the date of recording the compromises.

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12) The respondent herein shall co-operate with the Party of the First Part in transferring absolute title, mutating the name of the Appellants with respect to entire suit schedule property.

1. The respondents herein agreed that they will execute all the necessary papers, documents and will complete the required formalities to make this compromise a worthy one without claiming or expecting any excess amount from the Appellants herein.

2. That the appellants and respondents herein specially agreed to appear before this Hon'ble Court on day so prescribed to record compromise in CCCA No. 166 of 2015 filed against judgment and preliminary decree dated 06-07-2015 passed in O.S.No. 217 of 2008, on the file of the Court of Senior Civil Judge, City Civil Court, Hyderabad based on the agreed terms and conditions of this Memorandum of joint compromise and to get set aside the judgment and

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preliminary decree dated 06-07-2015 passed in O.S.No. 217 of 2008, on the file of the Court of 1 Senior Civil Judge, City Civil Court, Hyderabad.

3. That the respondent herein on this day declare, relinquish, his rights, title, shares and interest in the petition schedule property in favour of appellants herein and appellants accepted the same.
4. That the appellants herein have made the payments as per the agreed terms and conditions mentioned above and obtained proper receipts and acknowledgement from the respondent.
5. That the respondents herein will not have any right, share, interest in the petition schedule properties including other properties which belong to Late Smt Noor Jahan. Neither the respondents nor their successor in future can agitate or can ventilate any grievance against the appellants.
6. That the respondents herein are not having any right to claim the amount more than what has been agreed to be

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paid to them by the appellants because this compromise is getting recorded before the Hon'ble Court of Law and neither of the parties can raise any disputes in future nor can deviate from the memorandum of joint compromise as agreed and recorded before this Hon'ble Court. The respondent agreed that the amounts received by him is to his full and final satisfaction.

7. That the respondent herein hereby declare that the suit schedule property exclusively belong to the appellants herein alone and he is not having any right, share and title over the suit schedule property.
8. All the parties to the above appeal have gone through the contents of this memorandum of joint compromise, apart from this the contents of the memorandum of joint compromise was read over and explained to the parties in Urdu language, having satisfied themselves, found that the memorandum of joint compromised was reduced into writing as per their instructions, agreed that they have whole-heartedly agreed and accepted the above conditions,

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recorded the compromise in their flesh and blood before the Hon'ble Court of Law by making themselves present before this Hon'ble Court and signed this compromise before this Hon'ble Court.

9. I submit that in order to depart as friends rather than enemies and put a end to the multiple rounds of litigation being fought between the parties this Hon'ble Court may be please to bring on record the Memorandum of Compromise dated: 01-04-2021 and allow the CCCA No. 166 of 2015 in the light of the Memorandum of Compromise dated : 01-04-2021.

**SCHEDULE PROPERTY**

All that piece and parcel of property bearing H. No. 20-4-239, admeasuring 273.09 Square yards or 228.32 Square meters situated at Khilwat, Hyderabad and bounded as follows:

North: Mosque and Neighbours  
 South: Neighbors House  
 East: Road  
 West: Neighbors House

IN WITNESS WHEREOF both the Parties have set hand on this memorandum of compromise after careful perusal by going through the contents of this memorandum. The contents of this document was read over and explained to both the Parties in Urdu, having understood the same and found the compromise memo as per the agreed terms and conditions, both the Parties

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put their signatures and seals with their free will and consent without any force, coercion, undue influence of any person or of any kind whatsoever, in the presence of witnesses who also put their signatures by marking their presence by attesting this document.

10. that the appeal is allowed in the light of the settlement arrived at between the parties under the Memorandum of Compromise, and the judgment of the trial Court in O.S.No.217 of 2008 is set aside; and
11. that there be no order as to Costs in this Appeal.

Sd/- K.SRINIVASA RAO  
JOINT REGISTRAR

**//TRUE COPY//**

**SECTION OFFICER**

To,

1. The I Senior Civil Judge, City Civil Court at Hyderabad.
2. Two CD Copies
3. One Spare Copy

gbr



HIGH COURT

DATED: 30/04/2021

**COMMON DECREE**

**I.A.NO.6 OF 2021  
IN/AND  
CCCA.No.166 of 2015**

**I.A. IS ORDERD AND CCCA IS ALLOWED IN TERMS  
OF THE MEMORANDUM OF COMPROMISE**

④ ~~NW  
19/6/21~~