

**THE HON'BLE JUSTICE G. SRI DEVI**  
**AND**  
**THE HON'BLE SMT. JUSTICE M.G.PRIYADARSINI**

**O.S.A. No. 3 of 2022**

**AND**

**APPLICATION No. 297 of 2011**

**COMMON JUDGMENT:** (Per Hon'ble Justice G. Sridevi)

The present OSA is filed by the Appellants to record the compromise entered by the parties in Application No. 297 of 2011 filed in C.S. 14 of 1958 and pass a Final Decree in terms of Memorandum of compromise dated 19-3-2011. As per the said compromise dated 19-3-2011, the parties of the First Part are the purchasers, Second party is Defendant No. 206 in C.S. 14 of 1958 and the parties of the Third Part are the assignees from Defendant No. 206 and Defendant No. 157 in C.S. 14 of 1958. All the parties have filed Application No. 297 of 2011 in C.S. 14 of 1958 with the following prayer:-

*“to record the memorandum of compromise dated 19.03.2011 entered into between the parties to pass a final decree to the extent of 410.13 acres in Sy.Nos.2/1, 167, 173, 180, 181, 193/1 to 193/6 of Malkaram village, Shamshabad Mandal, Ranga Reddy District in favour of constituents numbers 1 to 10 of the 1<sup>st</sup> part and constituent No.1 of the 3<sup>rd</sup> part that was allotted to the share of sold sharers/share holders, morefully described and delineated in the plan attached to the compromise as schedule A shown in Red Colour and a final decree to the extent of Ac.5-00 in Sy.No.173 of Malkaram village, Shamshabad Mandal, Ranga Reddy District in favour of constituent No.2 of 3<sup>rd</sup> part more fully described*

*in Schedule B and delineated in green colour in the plan annexed to this compromise, as a complete division/partition of Sy.Nos.2/1, 167, 173, 180, 181, 193/1 to 193/6 of Malkaram village, Shamshabad Mandal, Ranga Reddy district that was allotted to the share of the sold sharers as per the report of the receiver – cum – commissioner approved by the Honourable Court on 01.12.2010 in Appln.No.861 of 2010 in C.S.No.14 of 1958 and to direct the registry to engross the final decree on stamp paper and pass such other order as the Honourable Court deems fit and proper in the circumstances of the case”.*

2. After hearing the learned Senior Counsel on office objections, by order dated 30-8-2022, this Court has overruled the office objection raised by the Registry as to the maintainability of present OSA taking note of the fact that this petition for recording compromise was filed in the suit sometime in the year 2011 and the same remained pending and unordered for all these years. We are satisfied about the contentions of Learned Senior Counsel who submitted that as per order 23 Rule 3 of CPC, whenever a compromise petition is filed, it is the duty of the court to record the same without any delay as any such delay in recording the compromise would change the mindset of the compromising parties and hence an appeal under Section 96 of CPC and clause 15 of Letters Patent Rules is maintainable. Hence, while overruling the office objections, this Court has directed that the OSA be registered and the Application No. 297 of 2011 filed in CS 14 of 1958 be put up along with this OSA.

3. After registering the appeal, the said OSA along with Application No. 297 of 2011 was listed before us for consideration and upon hearing the submissions of the learned Senior Counsel appearing for the Appellants and the objectors and further going through the entire record relating to the subject matter of the present OSA vis-à-vis Application No. 297 of 2011 filed in CS 14 of 1958 and other material particulars relating to the said suit we tend make a note of the following events which transpired during the hearing of the present appeal.

4. The present OSA was opposed by the Legal Heirs/Legal Representatives of Defendant No. 52, 58 and the GPA Holders of Defendant No. 109 along with Defendant No. 100 himself of the suit C.S. 14 of 1958. The main objection was that the present Appeal is not maintainable and there was no notice to all the parties of the suit for passing of a Final Decree. The learned Senior Counsel appearing for the said objectors argued that so far no orders were passed in Application No. 297 of 2011 and in absence of any specific order dismissing or allowing the said Application, an appeal under clause 15 of Letter Patent is not maintainable. The learned Senior Counsel also relied upon an order dated 28-10-2019 passed by a coordinate Division Bench of this Court in Appln.Sr.No.74306 of 2018 wherein while dealing with the office

objections in respect of lands situated in Hasmathpet Village, this court directed the counsel for the Applicants therein to pay batta to all the Respondents in C.S. No. 14 of 1958 since the prayer for passing of Final Decree has large ramifications and may affect even persons who are not parties to the compromise. The learned Senior Counsel relied upon a Judgment reported in ***Nawab Mir Jafar Ali Khan v. Syed Khaja Hussaini and others*** and further argued that all the parties in C.S. No. 14 of 1958 have to be made parties and notice should be ordered to them and they have to be heard before the passing the Final Decree as they would have substantial rights over the lands subject matter of the said compromise.

5. Countering the arguments of the objectors, the learned Senior Counsel appearing for the Appellants has brought to our notice that the objectors have no semblance of right over the suit schedule lands since the predecessors of the said objectors have already sold out their decretal rights by executing Registered Sale Deeds and said Sale Deeds were accepted by this Court and further that as per the orders passed in Application No. 64 of 1983 dated 5-8-1983, the predecessors of the said objectors being sold sharers were replaced by the Defendant No. 157 and 206 and the same stood confirmed by the orders passed in OSA No. 59 of 2006 by a coordinate Division Bench of this Court hence the present

objectors neither have any right to question the present Appeal nor to object the prayer of the present Appellants to record the compromise and pass Final Decree.

6. The learned Senior Counsel further argued that the question as to the maintainability of the present Appeal was raised at the admission stage itself and the same was overruled by this Court. It is his submission that since the parties have entered into a compromise and filed an Application for recording the same and pass the Final Decree in terms of the said compromise it is the duty of the court to record the same and pass the Final Decree unless the parties of the said compromise have deferred the compromise. Recording the compromise arrived between the parties cannot be delayed as the very purpose of Order 23 Rule 3 CPC will be defeated and in support of his contention the Learned Senior Counsel relied upon the Judgment of Division Bench of this Court reported in ***IDPL Employees Co-operative House Building Society Limited, Hyderabad v. Cyrus Investments Ltd., Mumbai*** wherein this court held that the compromise decree binds only the parties to the compromise and a non-parties to the compromise can work out their right elsewhere.

7. It is submission of the learned Senior Counsel that the above Judgment of the Division Bench was upheld by the Hon'ble

Supreme Court in SLP (C) No. 13644-13651 of 2009 wherein the Supreme Court held that the rights and interest of non-compromising parties if any, will not be affected by such compromise. It is further submitted that this Court is not powerless to record compromise and pass the Final Decree under Clause 15 of the Letters Patent, hence the objections raised by the persons who are not having any right over the subject lands cannot be countenanced. The Learned Senior Counsel also relied upon the recent Judgment of Hon'ble Supreme Court reported in ***Kattukandi Edathil Krishnan v. Kattukandi Edathil Valsan*** wherein it was held that no notice is necessary at the time of passing of Final Decree and it is the duty of the Court to pass the Final Decree irrespective of any Application being filed or not for the said purpose and as such Learned Senior Counsel appearing for the Appellants prayed to allow the present OSA to record the compromise and pass Final Decree.

8. Before we decide the present Appeal, it is appropriate to make a note of the proceedings of partition suit CS No. 14 of 1958. A suit was originally filed by one Dildarunnissa Begum for partition of Matruka Property of Khursheed Jah Paigah before the City Civil Court sometime in the year 1955 which was later withdrawn to this Court and numbered as CS No. 14 of 1958. In the said suit the

then State of Andhra Pradesh (now Telangana) was Defendant No. 53 and Jagir Administrator was Defendant No. 43. The State and the Jagir Administrator have setup title over the suit Schedule Properties but the same was rejected and a Preliminary Decree was passed in the year 1963 partly on compromise and partly on contest. In the Preliminary Decree itself a Receiver-cum-Commissioner was appointed to identify the Matraka Properties of Khursheed Jah Paigah and to prepare a scheme of partition in accordance with the shares decided in the Preliminary Decree and to submit reports from time to time for the approval of this Court

9. It can be seen from the record that as per the orders of this Court, the then Receiver-cum-Commissioners have filed several reports concerning the suit schedule lands. We have noticed that the lands in Hafeezpet village and Hydernagar villages were given to the Paigah as compensation in exchange of the Paigah lands situated in Thimmapur and Kursheednagar, which were taken over by the then Government for Nizam Railways. Hence the patta lands in Hafeezpet village and Hydernagar village were included in the suit schedule as item Nos.37 & 38 of Schedule-IV. The Receiver-cum-Commissioners have verified the revenue records and the names of the Ameer-E-Paigah were found in the Revenue Records in respect of the lands in Sy.Nos.77 to 80 of Hafeezpet

village and Sy.Nos.145, 163 & 172 of Hydernagar village and the then Receiver-cum-Commissioners filed Application No.268 of 1966 for delivery of possession of the said lands from the Government, which were taken over by the Government under mistaken impression that these lands are Jagir/Inam. The said application was allowed by order dt.24-03-1967. Since the Government has not taken any steps in pursuance to the orders in Appln.No.268 of 1966 dt.24-03-1967 the Receiver-cum-Commissioner has filed Application No.19 and 114 of 1973 for delivery of possession of the lands in Sy.Nos.77 to 80 of Hafeezpet village and Sy.Nos.145, 163 and 172 of Hydernagar village. The said applications were allowed by order dt.05.07.1974.

10. We have noticed that the State had filed Application No.44 of 1983 for deletion of the lands situated in Hafeezpet village and Ghansimiyaguda village, from the preliminary decree as they are not available for partition and the said lands will be available for partition subject to the release by the State. The said Application No.44 of 1982 was dismissed on 18-12-1982. The State filed appeal in O.S.A.No.1 of 1985 and the same was dismissed on 24-12-1999. Then the State filed SLP.C.No.7052 of 2000, but later the State withdrawn that SLP with a liberty to challenge the preliminary decree vide orders dt.05-05-2000. Then the

preliminary decree in the suit was appealed by the State unsuccessfully up to Supreme Court of India and the claim of the State stood rejected vide orders in SLP.C.No.10622-23 of 2001 dt.16-07-2001. Thus the claim of the State over the suit schedule lands was rejected. There after the State had constituted a special committee for taking appropriate decision in respect of the suit schedule lands in the suit. After the legal opinion and the meetings with the Higher Officials, the State issued memo No.28908/JA1/2004-1 dt.05-11-2004 which reads as follows:

*“The Special Chief Secretary and Chief Commissioner of Land Administration after conducting number of meetings of all concerned officials submitted report to the Government covering the lands involved in C.S.No.14 of 1958. The Special Chief Secretary & Chief Commissioner of Land Administration has stated that it is clear that no useful purpose will be served in pursuing these cases any longer and also stated that there is no option left to the Government, except conceding the request of the purchasers from the decree holders to effect mutation in their favour and further stated that there is no need for pressing the court for passing the final decree. He had expressed his opinion that a preliminary decree is regarded as embodying the final decision of the court passing that decree i.e. there is no much of difference between a preliminary decree and a final decree.*

*The Spl.C.S. & CCLA has therefore requested the Government that the Collector, Ranga Reddy District may be permitted to effect mutation in the land records in respect of the lands in Sy.Nos.145, 163 and 172 of Hydernagar village and in Sy.Nos.77, 78, 79 and 80 of Hafeezpet village of Balanagar and Serilingampally Mandal, Ranga Reddy District covered under C.S.No.14 of 1958, following various orders of the Courts.*

*The Collector, Ranga Reddy is requested to take necessary action accordingly and not to seek any further clarification”*

11. We make a note that that subsequently the State vide Memo No.59734/JA.1/2005 dt.18-05-2009 again issued instructions which reads as follows:

*“As such there is no other option available with the Government except to implement the orders of the Hon’ble High Court and accordingly the lands situated in the escheated villages as per Muntakab covered under suit schedule properties in C.S.No.14/1958 are released and the mutation in the names of decree holders have to be carried out in view of the orders of the Hon’ble High court and the Apex Court”.*

12. In pursuance to the above memos the Collector R.R.District had issued proceedings in Lr.No.LC1/356/2010 dt.21-05-2010 instructing all the Tahsildars, of Serilingampally, Balanagar, Shamshabad, Ibrahimpatnam to follow the instructions issued by the Government in respect of the lands covered by the suit in C.S.No.14 of 1958 for mutation/registration in the names of the Final Decree Holders/Purchasers of Final Decree Holders duly following the orders of various courts and the procedure as per rules that are in force.

13. We make a note that that originally there were several sharers as per the preliminary decree but out of them about 80% of the sharers have sold their preliminary decree rights under registered sale deeds in favour of HEH the Nizam and Khasim

Nawaz Jung during the years 1964-66 and the sales were accepted by this court and the purchasers have been impleaded as Defendant Nos.156 and 157 vide judgment reported in AIR 1966 AP 361. It is also seen that the sold sharers were deleted from the cause title of the suit as per the orders of this Court in Appln.No.64 of 1983 dated 03-08-1983. We make a note that that the claims of the legal representatives of the sold sharers were rejected by this Court as per the orders passed in Appln.No.92 of 2005 and O.S.A.No.47 of 2006 and the same were confirmed by the Supreme Court in SLP.C.Nos.19811-19812 of 2008 dt.03-02-2015.

14. We make a note that that the 40% shareholding of HEH the Nizam who was Defendant No.156 has been purchased by M/s. Cyrus Investments Limited and as a purchaser, it has been impleaded as Defendant No.206. Thereafter the parties to the suit effectively are M/s. Cyrus Investments Limited (D206) with 40% share, Khasim Nawaz Jung (D156) with 40% share and the remaining 20% unsold sharers.

15. It is noticed that the Receiver-cum-Commissioner has submitted various reports suggesting the scheme of partition in respect of different items of the properties of NawabKhursheed Jah Paigah in Application No.73 of 1970 in respect of the urban properties, in Application No.139 of 1971 in respect of the

agricultural properties. The said reports have been accepted by the courts and for the most of the properties final decrees were passed in respect of the suit schedule-IV and IV-A properties and the same have attained finality up to the Supreme Court including the final decree passed in Appln.No.420 of 2010 and O.S.A.No.18 of 2010 dt.01-02-2011, which was confirmed by the Supreme Court in SLP.C.No.22420 of 2011. The relevant paras in O.S.A.No.18 of 2010 are as follows:

*“There is absolutely no dispute in regard to the aforesaid proceedings mentioned above, in which not only the State but also the parties and their predecessors in interest are very much represented. Undisputedly, the preliminary decree was passed in the main suit which was filed long back in the year 1958. The attempts made by the State as well as the other parties, have been proved futile and proved rejected and confirmed. The State Government itself has accepted to deliver the possession of the lands in question as per the orders in Application Nos.19 and 114 of 1973, dated 05-07-1974. Acting on the same, it is the State itself, which has filed petitions in Application No.44 of 1982 for amendment of the decree to delete the very same Item Nos.37 and 40 of Schedule IV from the suit schedule. But the same was rejected after contest. This order was confirmed by a Division Bench of this Court in O.S.A.No.1 of 1985 by orders, dated 24-12-1999. Again, even the attempt made by the State to prefer an appeal to the Apex Court stood rejected, and thus, not only the preliminary decree but also the varied situation stood confirmed and the same has become final. Even the attempt made by the State to assail the preliminary decree at a very belated stage, has failed as per the orders in O.S.A.S.R.Nos.3526 and 3527 of 2000, dated 17-02-2001 and again this order was also confirmed by the Apex Court as per the orders in S.L.P.No.10622 and 10623 of 2001, dated 16-07-2001. There has been change of hands by transfers and assignments and the same was duly*

*accepted and has become final as per the orders in O.S.A.Nos.19 to 26 of 2001, dated 24-08-2001 and even this latter order also stood confirmed by the Apex Court as per the orders in S.L.P.Nos.4463 to 4470 of 2002, dated 08-04-2002. Even an attempt made by the State for a review was rejected by the Apex Court on 31-07-2002. There is again reiteration of the very same situation in the proceedings in O.S.A.Nos.19 to 26 of 2001, Application No.145 of 2007, O.S.A.Nos.58 and 59 of 2007, Application No.64 of 1983 and O.S.A.No.59 of 2006. There is, thus, a consistent reiteration and confirmation about this state of events repeatedly on more than one occasion on the judicial side and that too on the attempts made by the parties and the State. Therefore, it cannot be said that any attempt, be it at the instance of the parties or even suo moto, cannot find any valid and sound legal basis to fall back and much less to reverse the situation. In view of the above the State has no semblance of right over the suit schedule properties.”*

Thus the claim of the State as well as the sold shareholders was rejected up to the Supreme Court.

16. It is to be noted that as per the orders passed in Application No.541 of 2002 and O.S.A.No.44 of 2002 dated 15.02.2005, the Receiver-cum-commissioners was directed to identify the suit schedule IV-A properties and filed reports dividing the lands between the sharers as per their entitlement in the preliminary decree. In respect of the lands situated in Malkaram Village, which is Item No.1 of schedule IV-A, the Receiver-cum-commissioners had filed report on 09.09.2010 in Application No.861 of 2010. The relevant portion of the report reads as under:-

*“It is submitted that the Receiver-cum-commissioners along with surveyor have visited the lands in Malkaram Village on different dates and we have*

*obtained the revenue records of the village and the village map prepared by the survey and settlement department. On the spot, we could identify survey numbers 2/1, 167, 173, 180, 181, 193 to 196 of Malkaram as belonging to Paigah Kursheed Jahi Estate, therefore, it forms part of Item No.1 of suit schedule IV-A of C.S.No.14 of 1958 and as per the preliminary decree this item is Matraka property of Paigah and partitionable among the share holders. Further, the claim of the Government was negatives upto the Supreme Court and the preliminary decree confirmed and as per that the lands to an extent of Ac.617-37 cents equivalent to 61737 cents situated in Sy.Nos.2/1, 167, 173, 180, 181, 193/1 to 193/6 of Malkaram are partitionable among the sharers.*

*The Receiver-cum-commissioners have prepared the scheme of partition among the share holders treating the lands as a single compact block and the value of the land is also same.*

*The Receiver-cum-commissioners submitted that all the unsold shareholders' shares are shown by mets and bounds and all the sold shareholders' sharers are substituted and allotted to the defendants 157 and 206."*

17. As per the above said report, the defendants 157 and 206 were allotted to an extent of Ac.415.13 cents which was allotted to the share of all sold shareholders. The said report, dated 09.09.2010 was accepted by this Court *vide* orders dated 01.12.2010 and it had attained finality. The said report was acted upon and some of the unsold shareholders have filed applications for passing of final decrees and the same were allowed by this Court.

18. It is also noted that the defendants 157 and 206 have assigned the lands to the defendants 318 and 320, in turn, the defendants 318 and 320 have entered into sale transactions with

the present applicants in respect of all that land to an extent of Ac.415.13 cents that was allotted to the defendants 157 and 206 as per the report dated 09.09.2010. Since the final decree application No.117 of 2010 filed by the defendant No.206 for passing of the final decree in respect of the suit schedule lands IV and IV-A properties is pending in which there was already a paper notice published on 28.02.2008 in Vaartha Daily News Paper and Siasat Urdu News Daily, calling for objections, if any, with regard to passing of final decree in respect of suit schedule IV-A properties and there are no objections received pursuant to the paper publication, dated 28.02.2008, except the present appellants/applicants claiming the subject lands. Thereafter, the allottees of the lands, assignees of the lands and purchasers of the lands by way of sale agreements, have entered into Memorandum of Understanding on 19.03.2011 and filed the present application for recording the compromise and for passing of final decree in terms of the compromise and to engross the same on stamp papers.

19. We have perused the orders and noticed that the defendants 52, 58, 100 and 109 have sold out their decretal rights by way of registered sale deeds and the said sale deeds were accepted by this Court *vide* orders passed in Application Nos.109 of 1966, 229 of 1966 and 99 of 1966 respectively and the purchasers i.e.,

defendants 157 and 206 were impleaded in the suit. Subsequently, as per the orders passed in Application No.64 of 1983, dated 05.08.1983 the names of the sold shareholders were deleted and the names of the defendants 157 and 206 were substituted and the said orders were confirmed by the Division Bench of this Court in O.S.A.No.59 of 2006, dated 10.10.2007. It is also on the record that very same objector, along with defendant No.58 had filed application No.92 of 2005 for impleadment in the suit as L.Rs. of defendant No.52. The said application No.92 of 2005 was dismissed on 31.07.2006 by holding that the legal representatives cannot have right over the property, which was sold by their predecessors as per Muslim Shariat Law. The appeal filed by the applicants against the dismissal order dated 31.07.2006 was confirmed by the Division Bench in O.S.A.No.47 of 2006 dated 12.06.2007. The said order was also confirmed by the Hon'ble Supreme Court *vide* orders dated 03.02.2015 in S.L.P.(C) No.19811-19812 of 2008. It is also brought to the notice of this Court that the registered sale deed bearing document No.2460 of 1964 executed by the defendant No.52 was not challenged during the life time of this defendant upto the year 2000. It is also brought to the notice of this Court that the registered sale deed bearing document No.1544 of 1964 executed by defendant No.58 was challenged by this defendant in the year 2016 in a Civil Suit

vide O.S.No.843 of 2016 seeking cancellation of the registered sale deed and the same was dismissed on 21.04.2017. Similarly, the defendant Nos.100 and 109 have never raised any objection about the sale made by them till date.

20. Since the deceased defendants have sold out their decretal rights during their life time, which was accepted by this Court long back in the years 1969 and 1971 itself, the legal representatives cannot have any right over the subject lands. It was also reiterated by the Division Bench of this Court in O.S.A.No.18 of 2010 and Cross Objections (SR) No.6396 of 2010. At paragraph No.20 of the judgment, the Division Bench of this Court held that *“the objections raised by the learned counsel Mr.M.Srinivasa Rao and Mr.M.V.Rajan, who appeared for the legal heirs of sold sharers are overruled. We further clarify that since the parties being Muslims, the preliminary decree rights, which are sold away by the original parties to the suit or their lawful general power of attorney holders cannot be claimed by way of succession by the legal heirs of such parties... In the light of the above principles of Mohammadian Law the legal heirs of the decree holder cannot claim any right over any property which has been parted or settled by compromise by the decree holder by himself or through his G.P.A., during his life time and since there exists no subsisting or enforceable right, they do not have any locus or semblance of sustainable claim.”* Thus, the

aforesaid order filed in O.S.A.No.18 of 2010 had attained finality as the appeal filed in S.L.P.(C) No.22420 of 2011 was also dismissed on 26.11.2013. Record further reveals that the report of the Receiver filed in Application No.861 of 2010 was accepted long back in the year 2010 itself which has attained finality, hence, now the legal representatives claiming through the sold sharers cannot have any right or objections.

21. With regard to the contention of the objectors about service of notice and orders passed by this Court, dated 28.10.2020 in Application (SR) No.74308 of 2018 is relating to Hasmathpet Village, which was passed on office objection for payment of Batta for service of notice. In the said case, the applicants therein have filed application for amendment of prayer in the said application for passing of decree in terms of compromise and the said application was allowed by the Division Bench, however, subsequently the objections were overruled and the applications were numbered. But, the Hon'ble Supreme Court in **Kattukandi Edathil Krishnan** (supra) while referring to its earlier decision in **Shub Karan Bubna @ Shub Karan Prasad Bubna Vs. Sita Saran Bubna** held that the notice is not necessary at the stage of final decree. The relevant paras are extracted hereunder:-

*“32. Since there is no limitation for initiating final decree proceedings, the litigants tend to take their own sweet time for initiating final decree*

*proceedings. In some states, the Courts after passing a preliminary decree adjourn the suit sine die with liberty to the parties for applying for final decree proceedings like the present case...*

*“A suggestion for debate and legislative action.*

*23. The century old civil procedure contemplates judgments, decrees, preliminary decrees and final decrees and execution of decrees. They provide for a “pause” between a decree and execution. A “pause” has also developed by practice between a preliminary decree and a final decree.*

*29. The present system involving a proceeding for declaration of the right, a separate proceeding for quantification or ascertainment of relief, and another separate proceeding for enforcement of the decree to secure the relief, is outmoded and unsuited for present requirements. If there is a practice of assigning separate numbers for final decree proceedings, that should be avoided. Issuing fresh notices to the defendants at each stage should also be avoided. The Code of Civil Procedure should provide for a continuous and seamless process from the stage of filing of suit to the stage of getting relief.*

*33. We are of the view that once a preliminary decree is passed by the Trial Court, the court should proceed with the case for drawing up the final decree suo motu. After passing of the preliminary decree, the Trial Court has to list the matter for taking steps under Order XX Rule 18 of the CPC. The courts should not adjourn the matter sine die, as has been done in the instant case. There is also no need to file a separate final decree proceedings. In the same suit, the court should allow the concerned party to file an appropriate application for drawing up the final decree. Needless to state that the suit comes to an end only when a final decree is drawn. Therefore, we direct the Trial Courts to list the matter for taking steps under Order XX Rule 18 of the CPC soon after passing of the preliminary decree for partition and separate possession of the property, suo motu and without requiring initiation of any separate proceedings.*

*34. We direct the Registry of this Court to forward a copy of this judgment to the Registrar Generals of all the High Courts who in turn are directed to*

*circulate the directions contained in paragraph '33' of this judgment to the concerned Trial Courts in their respective States.”*

22. In the light of the above judgment of the Apex Court, there is no need for issuance of notice to the respondents/defendants at each stage of the suit. But in the present case, as already stated above there was paper publication calling for objections, if any, hence the objection raised by the learned Senior Counsel for the objectors in this regard is not sustainable. However, the objectors, who claimed the rights over the subject lands have no legal right to claim the lands and raise objections, since the defendants 52, 58, 100 and 109 have already sold out their decretal rights in favour of the defendants 156 and 157 long back and the defendant No.156 in turn sold to defendant No.206, accordingly the names of the sold sharers have already been deleted and substituted with the defendants 156 and 206 as per the orders passed in Application No.64 of 1983, which attained finality. Further, the report passed in Application No.861 of 2010 allotting the lands to the defendants 157 and 206 was already approved by this Court on 01.12.2010 which also had attained finality. The present objectors or their predecessors have not challenged the said orders and the division was accepted by this Court and also acted upon in view of passing of final decree in respect of the other defendant Nos.101 to 105 of the very same village. Hence, the present objectors have no

semblance of legal right to raise objections in the present application and the appeal. In view of the above, the objections raised by the objectors are not maintainable and the same are rejected.

23. We have also perused the list of cases, the orders passed by this Court as well as the orders passed by the Hon'ble Supreme Court against the predecessors of the present objectors. We make a note that the present objectors have been filing cases one after the other claiming rights on the suit schedule lands to their predecessors, who have sold their rights, way back in the year 1960-64 and thus, the predecessors being sold sharers, the present objectors cannot file any case/cases whatsoever and cannot waste the valuable time of the Court by indulging into vexatious litigation and any such attempt if encouraged would tantamount to abusing the process of law, thereby depriving legitimate rights of the *bona fide* purchasers. Therefore, it is the duty of this Court to deal with this issue and declare the present objectors claiming to be the legal heirs/legal representatives of the defendant Nos.52 and 58 and G.P.A. holders of other sold sharers as vexatious litigants with reference to the suit properties of C.S.No.14 of 1958 and hold that the present objectors have no semblance of right to initiate any proceedings on behalf of sold sharers without obtaining permission of this Court. Accordingly,

all the objections raised in the present appeal by the objectors are not tenable and are dismissed.

24. Now we come to the Application No.297 of 2011, wherein the parties have arrived at a compromise and sought a final decree in terms of the said compromise and the said application being pending since the year 2011, the present appellants/applicants have filed the present O.S.A. to record the compromise and to pass a Final Decree in terms of the Application No.297 of 2011. In view of the facts and circumstances stated supra, we have been satisfied that the present O.S.A. is maintainable and there is no *embargo* in accepting the prayer of the present appellants. We have enquired from the parties, their Special Power of Attorneys about their consent and consensus for recording the Memorandum of Compromise and we are further satisfied that all the parties to the compromise have admitted and accepted the said compromise and appended their signatures on the Memorandum of Compromise, dated 19.03.2011.

25. During the course of hearing, we have been taken through the consent memo filed by and on behalf of the defendant No.157 i.e., Kasim Nawaz Jung (since died) represented by the legal representatives, who are defendant Nos.334 and 335 *vide* U.S.R.No.358 of 2007 and we are satisfied that not only the parties

to the compromise, but also the legal representatives of defendant No.157 have also consented for recording of the present compromise.

26. We have also enquired from all the parties to the Memorandum of Compromise in open Court as to their consent and willingness to record the compromise and since the parties are identified by their respective counsels, we tend to record the said compromise. The applicant Nos.1 to 8 are all companies, represented by Mr.P.S.Parthasaradhi, Special Power of Attorney Holder of all the companies, the applicant No.9 is represented through Special Power of Attorney Holder Mr.L.P.Sashikumar and the applicant No.10 is appeared on Special Vakalat filed by Mr. N.M.Krishnaiah, Advocate. The respondents 1 and 2 are the companies, represented by the Special Power of Attorney Holder Mr.P.V.S.Sharma and the respondent No.3 is appeared on Special Vakalath holder Ms.K.Kalyani, Advocate. All the above said parties have accepted for recording the compromise and for passing of final decree in terms of the Memorandum of Compromise dated 19.03.2011.

27. Before parting with the case, we observe that the pendency of petition for recording compromise from 2011 onwards is not only strange but also unjust. In view of the recent judgment of the

Hon'ble Supreme Court reported in ***Kattukandi Edathil Krishnan*** (supra), it is the duty of the Court to pass the final decree irrespective of any application being filed for the said purpose by the parties or not, but in the present case, though the parties have filed the application for passing of the final decree in terms of the compromise, the same is kept unheard till date. Hence, we intend to exercise our Letters Patent jurisdiction and allow the appeal as prayed.

28. We have been fully convinced that the Memorandum of Compromise, dated 19.03.2011 is lawful, admitted and there is no impediment for recording the same. Hence, the present appeal is allowed and the Memorandum of Compromise, dated 19.03.2011 and the final decree in terms of the said compromise is passed in its letter and spirit. Consequently, Application No.297 of 2011 stands allowed.

29. In the result, the appeal is allowed and consequently, all the objections raised by the objectors are dismissed. No costs.

30. The Registry is directed to make the Memorandum of Compromise dated 19.03.2011 as part of the final decree.

31. The Registry is further directed to engross the final decree based upon the Memorandum of Compromise, dated 19.03.2011 on the requisite stamp papers and issue the same to the parties to the final decree.

Miscellaneous petitions, if any, pending shall stand closed.

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**G. SRI DEVI, J**

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**SMT. M.G.PRIYADARSINI, J**

26.09.2022  
gkv/tsr

**THE HON'BLE JUSTICE G. SRI DEVI**  
**AND**  
**THE HON'BLE SMT. JUSTICE M.G.PRIYADARSINI**

**O.S.A. No. 3 of 2022**  
**AND**  
**APPLICATION No. 297 of 2011**  
**Date:26.09.2022**

gkv/tsr