



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2017

CORAM :

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THE HONOURABLE MR.JUSTICE M.S.RAMESH
Writ Petition (MD) No.14485 of 2013

J.Anand Youakash

... Petitioner

Vs.

- 1.The District Registrar (Nir),
Palace Road, Madurai.
- 2.The Sub Registrar,
Sub Registrar Office,
Arasaradi, Madurai.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the 2nd respondent in Na.Ka.No. 311/2013 dated 26.03.2013 and quash the same as illegal and arbitrary and consequently direct the respondent to enter the compromised decree into the index of the respondents herein.

For Petitioner

: Mr.V.Nagendran for
Mr.R.Sevugaraja

For Respondents

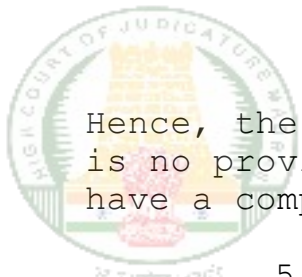
: Mr.M.Alagadevan,
Special Government Pleader.**ORDER**

By virtue of a decree in A.S.(MD)No.142 of 2003, dated 24.11.2010, the petitioner had derived certain rights by way of a compromise entered between the parties to the appeal suit in the properties mentioned therein.

2.When the petitioner had requested the respondents to register his compromise decree dated 24.11.2010, the same was rejected on the ground that there is no provision under the Registration Act, 1908, to register a compromise deed. Challenging the refusal for registration, the petitioner is before this Court.

3.I have given careful consideration to the submissions made by the learned counsel on either side.

4.The reason for refusal to register is spelt out in the compromise decree dated 26.03.2013. According to the second respondent, Section 89(2) and sub Rule (2) (A) of the Registration Act, 1908 provides for registration of certificate of sale of immovable property issued by a Court and for orders effecting or raising an attachment of immovable property can be registered.



Hence, the learned Special Government Pleader submitted that there is no provision under the Registration Act, 1908 enabling them to have a compromise decree registered.

5. Learned counsel for the petitioner, on the other hand, inviting my attention to Sections 17(e) and 18(cc) of the Registration Act, 1908 submitted that the word 'instrument' as referred to in Sections 17 and 18 would also include a decree of compromise and therefore, the respondents are bound to register the same.

6. Section 17(e) and Section 18(cc) are extracted hereunder for easy reference:-

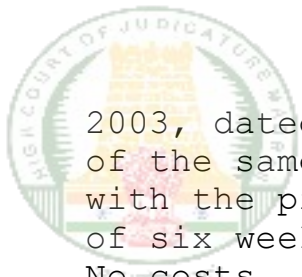
"17(e) non testamentary instruments transferring or assigning any decree or order of a court or any award where, such decree or order or award purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immovable property;"

.....

18(cc) instruments transferring or assigning any decree or order of a Court or any award when such decree or order or award purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of a value less than one hundred rupees, to or in immovable property;"

7. Section 17(e) which refers to documents for which registration is compulsory includes non testamentary instruments such as a decree that creates title or interest in an immovable property. The compromise decree as in the present case, also creates title in respect of each of the parties to the decree. As such, it squarely falls under Section 17(e) as 'instrument' which requires compulsory registration. Likewise, insofar as documents of which registration is optional is concerned, Section 18(cc) also refers to instruments, which includes, a decree that creates a right, title or interest in immovable properties. I am of the considered view that a decree of compromise passed by a Court, squarely falls within the meaning of word 'instrument' as mentioned in Section 17(e) and under Section 18(cc) of the Registration Act, 1908.

8. In view of the above finding, the reasoning spelt out in the impugned order by the second respondent is liable to be rejected. Accordingly, the writ petition is allowed. The impugned order dated 26.03.2013 passed by the second respondent is quashed. Consequently, the petitioner is granted liberty to present the compromise decree dated 24.11.2010 passed in A.S. (MD) No. 142 of



2003, dated 24.11.2010 before the second respondent and on receipt of the same, the second respondent shall register it in accordance with the provisions of the Registration Act, 1908, within a period of six weeks from the date of receipt of a copy of this order.
No costs.

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Sd/-
Assistant Registrar (CS-I)

/TRUE COPY/

Sub Assistant Registrar

To

1.The District Registrar (Nir),
Palace Road, Madurai.

2.The Sub Registrar,
Sub Registrar Office,
Arasaradi, Madurai.

+1 cc to MR.R.SEVUGARAJA,ADVOCATE, SR NO:2235

sms
sva/ss2/ksm/27.01.2017/3p/4c

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