

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.29044 of 2019
and
W.M.P No.28824 of 2019

M/s.Toursim Resorts Pvt. Ltd.,
Represented by its Authorized Representative,
Mr.Karthik Kishorte,
Padmini Complex, Ettiness Road,
Ooty - 643 001.

And Corporate Office at
Door No.4, Shalomn Apartments,
No.1, Josier Street, Nungambakkam,
Chennai - 600 034

Petitioner

vs.

Joint -1, Sub Registrar,
Udhagamandalam,
Nilgiris - 643 001.

Respondent

Prayer: Writ Petition filed under Article 226 of the
Constitution of India for issuance of a Writ of Mandamus,
directing the respondent herein to register the Arbitration
Award dated 19.08.2019 pending disposal of the writ petition.

For Petitioner : Mr.Abudukumar Rajarathinam for
M/s.R.Sivakumar

For Respondent : Mr.T.M.Pappiah
Special Government Pleader

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O R D E R

This writ petition has been filed for a direction to the
respondent to entertain the document (Award) submitted by the
petitioner and to register the same on the file of the
respondent.

2.The case of the petitioner is that they are the owners of
the property and they entered into an agreement of sale on

20.06.2019 with a third party. The petitioner also received advance towards part of sale consideration. A dispute arose between the parties and the matter was referred to arbitration. The learned Arbitrator passed an Award on 19.08.2019 by issuing certain directions. The petitioner wanted to register this Award and the same was not entertained by the respondent on the ground that only a decree can be registered and no Award can be registered. Aggrieved by the same, the present writ petition has been filed before this Court seeking for appropriate directions.

3. Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondent.

4. The only issue that requires consideration of this Court is as to whether the respondent was right in denying registration of the Award that was submitted by the petitioner.

5. In the considered view of this Court, where the Awards purportedly operates to create and declare the right, title or interest in an immovable property of the value of more than Rs.100/-, the same is compulsorily registerable under Section 17 (2)(vi) of the Registration Act, 1908. It must be borne in mind that what has been excluded under the said provision is only the decree or orders of Court and not the Awards of Arbitrator. Therefore, in a given situation, an Award can also become compulsorily registerable. Therefore, the respondent should not reject or refuse registration, if such Awards are presented for registration.

6. In the present case, an interest over the property has been created by the Award and therefore, it becomes registerable. Therefore, the respondent was not right in refusing to register the Award that was submitted by the petitioner.

7. A useful reference can be made to the judgment of the Hon'ble Supreme Court in *Ramesh Kumar and Another vs. Furu Ram and another* reported in 2011 (8) SCC 613. The relevant portions in the judgment are extracted hereunder:

45. As noticed above, the reference agreements dated 12.3.1992 were not in regard to any agreement of sale or any dispute relating to immovable property, or in regard to the lands in regard to which the award was made. It did not refer to the lands in question. No dispute regarding immovable property was referred to arbitration or was the subject matter of the arbitration. The alleged subject matter of arbitration was non-payment of Rs.8,00,000 said to have been borrowed by each of the appellants. The arbitrator

recorded an alleged statement by the borrowers (appellants) that they had received Rs.8,00,000 from Furu Ram and Rs.8,00,000/- from Kalu Ram; that they were not able to refund the same and therefore they had given lands measuring 49 Kanals 10 Marlas to Furu Ram and another 49 Kanals 9 Marlas to Kalu Ram; and that Furu Ram and Kalu Ram confirmed that they had obtained possession of the said land. The awards therefore declared that Furu Ram and Kalu Ram had become the absolute owners of the lands in question.

46.Thus the awards are clearly documents which purport or operate to create and declare a right, title or interest in an immovable property of the value of more than Rs.100 which was not the subject of the dispute or reference to arbitration. Therefore the awards were compulsorily registrable. If they were not registered, they could not be acted upon under section 49 of the Registration Act, 1908 nor could a decree be passed in terms of such unregistered awards.

8.It is clear from the above judgment that unregistered Awards which are compulsorily registerable cannot be admitted in evidence and no decree can be passed in terms of the Award. That makes it clear that Award like any other document must also be registered when it is presented before the office of the Sub Registrar. This is more so in cases, where the Award creates right, title or interest over an immovable property.

9.In view of the above discussion, there shall be a direction to the respondent to entertain the Arbitration Award presented by the petitioner and register the same in accordance with law.

10.This writ petition stands allowed with the above direction. Consequently, connected miscellaneous petition is closed. No Costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssr

To

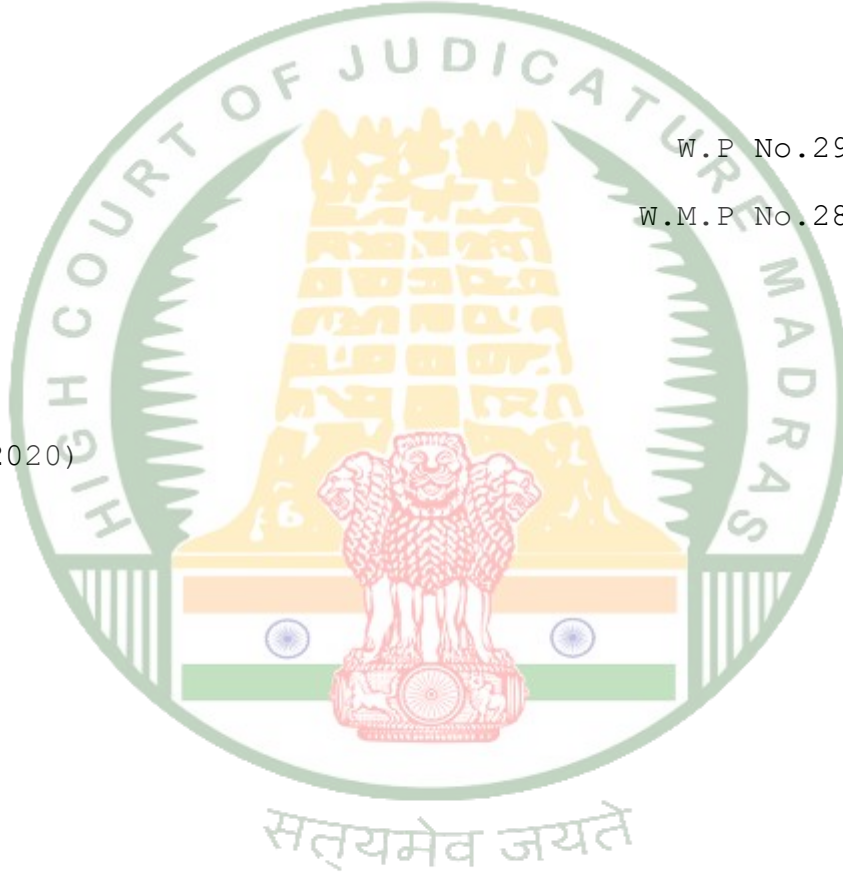
Joint -1, Sub Registrar,
Udhagamandalam,
Nilgiris - 643 001.

+1cc to Mr.R.Sivakumar, Advocate, S.R.No.19943

+1cc to the Government Pleader, S.R.No.20626

W.P No.29044 of 2019
and
W.M.P No.28824 of 2019

PP (CO)
RN (25/06/2020)



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