

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

W.P.NO.1983 OF 2021

Gayathre Rajan

... Petitioner

Vs

The Sub Registrar
Avalpoondurai Registrar Office
Avalpoondurai
Palani - Erode Road
Tamil Nadu - 638 115.

... Respondent

Prayer :

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondent to register the common compromise decree passed in the suits in O.S.No.189/2010 and O.S.No.158/2012 dated 24.01.2020.

For Petitioner : Mr.K.K.Murralitharan

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

ORDER

The petitioner approached the Sub Registrar, Avalpoondurai Registrar Office, the respondent herein to register the common compromise decree in O.S.No.189/2010 and O.S.No.158/2012 dated 24.01.2020, but the Sub-Registrar has issued a refusal check slip dated 03.11.2020 indicating that the document was belatedly presented for registration.

2. Heard Mr.K.K.Murralitharan, learned counsel for the petitioner and Mr.T.M.Pappiah, learned Special Government Pleader for the respondent, and perused the documents.

3. The learned counsel for the petitioner brought to the notice of this Court in a judgment of this Court in K.Dhayanidhi vs. State of Tamil Nadu [2020 (2) TNCJ 737(Mad)], wherein, the

Court has held, after relying on the judgment of the Division Bench of this Court in S.Sarvothaman v. The Sub Registrar at Oulgaret, Puducherry [2019(3)MLJ 517 = AIR 2019 Mad 125] that registering a decree of the Court is an optional registration and hence, the limitation prescribed under Sections 23 and 25 of the Act, would not apply.

4. The learned Special Government Pleader appearing for the respondent would submit that the Registration Act gives exception in the document and hence, the Sub-Registrar has refused to register the document.

5. The law declared by the Division Bench of this Court in S.Sarvothaman case cited supra, has settled the issue. The registration of a decree is only optional under Section 17(2) of the Registration Act, and therefore, the limitation prescribed under Section 23 of the Act, and the power to condone the delay after four months as provided under Section 25 of the Act, may not apply. There is however one exception to the rule in that, as per Section 17(2)(vi) of the Registration Act, where in a compromise decree, any properties other than the subject matter of the suit (in which compromise decree is passed) is included, then such compromise decree has to be registered under Section 17(1) of the Act. Therefore, except the category of compromise decrees as mentioned in Section 17(2)(vi) of the Registration Act, for all other categories of decrees, the Registering Authority has to register the same without reference to any limitation.

6. So far as the decree required to register in the present petition is concerned, the subject to what is herein above stated, the Registering Authority is required to register the same. The petition is allowed in the manner indicated. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ds

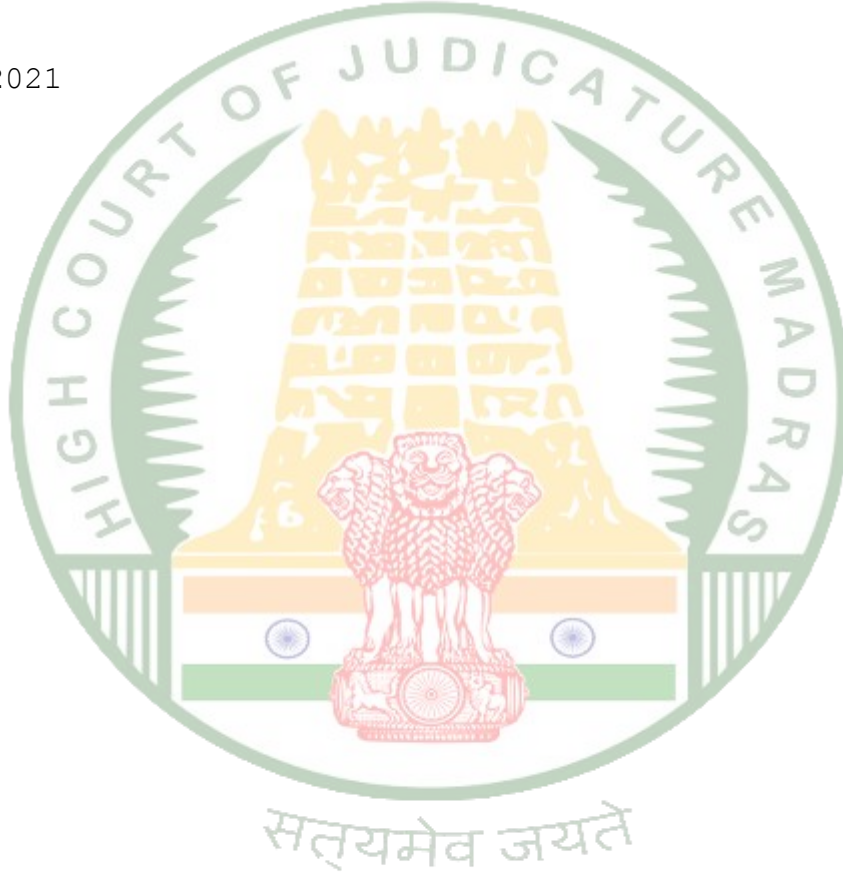
To:

The Sub Registrar
Avalpoondurai Registrar Office
Avalpoondurai
Palani - Erode Road
Tamil Nadu - 638 115.

+1cc to Mr.K.K.Murralitharan, Advocate, S.R.No.5253
+1cc to the Government Pleader, S.R.No.6088

W.P.No.1983 of 2021

MP (CO)
CS/17/02/2021



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