



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2021

CORAM

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA
and
THE HONOURABLE Mr.JUSTICE KRISHNAN RAMASAMY

W.A.No.1664 of 2021
and C.M.P.No.10488 of 2021

P.Anandhavalli Ammal

...Appellant/Petitioner

vs

1. R.Vijayasamundeeswari
 2. The Inspector General of Registration,
No.100, Santhome High Road,
Chennai 600 035.
 3. The Deputy Inspector General of Registration,
No.50, Sankara Naidu Street,
Thirupapuliyur, Cuddalore- 607 002.
 4. The District Registrar,
Registration Department,
No.63/40, Perumal Koil Street,
Tindivanam, Viilupuram District 604 001.
 5. The Sub Registrar,
O/o.The Sub Registrar,
Mailam, Villupuram District
- ...Respondents/Respondents

Prayer : Writ Appeal filed under clause 15 of the Letters Patent to set aside the order dated 04.03.2021 made in W.M.P.No.6203 of 2021 in W.P.No.2538 of 2021.

Prayer in W.M.P.No.6203 of 2021: Petition praying that in the circumstance stated therein and the affidavit filed therewith the High Court will be pleased to recall the order dated 09/02/2021 made in W.P.2538 of 2021.

Prayer in W.P.No.2538 of 2021: Petition under article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Respondents herein to forthwith register the judgment and Decree of this Honourable court dated 02.03.2020 in S.A.No.812 of 2013 in the relevant books of the Sub-Registrar



WEB COPY

of Mailam without reference to the Notice dated 12.01.2021 issued in P31/2020 by the 4th Respondent herein.

For Appellant	:	Mr.K.Doraisami Senior Counsel for M/s.Kandhan Duraisami
For Respondents 2 to 5	:	Mr.D.Ravichander State Government Counsel
For Respondent-1	:	Not ready in notice.

JUDGMENT

[Judgment of the Court was delivered by PUSHPA SATHYANARAYANA,J.]

This Writ Appeal is directed against the order of the learned Single Judge dated 04.03.2021 made in W.M.P.No.6203 of 2001, which was filed by the first respondent herein seeking to re-call the order dated 09.02.2021 made in W.P.No.2538 of 2021.

2. On 09.02.2021, an order was passed by the Writ Court in W.P.No.2538 of 2021 at the instance of the appellant herein, wherein, in paragraphs 5 and 6, it has been held as follows:

"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."



3. The said order was sought to be reviewed by one Vijayasamundeeswari, who is the first respondent herein. It was admitted that the first respondent herein, who is the review petitioner, is the third party to the Second Appeal No.812 of 2013 and she preferred an impleading petition in C.M.P.No.3417 of 2020 in the appeal, which was dismissed by this Court on 02.03.2020. It is also stated that against the order of dismissal, a Review Petition in R.A.No.59 of 2020 was also filed and the same is pending.

4. In W.M.P.No.6203 of 2021 in W.P.No.2538 of 2021, the Writ Court had found that since the review petition is pending, the registration of the compromise decree may wait till the review petition is disposed of and had put on hold the registration of the said compromise decree, against which, the present Writ Appeal is filed.

5. The learned counsel for the appellant submitted that even notice could not be served on the first respondent/third party, as she had vacated from the address given. The Court notice also has been returned with an endorsement as "party vacated".

6. It is seen that the review petition is pending. Nonetheless, we see no impediment for the registration of the compromise decree as per the original order passed by the Writ Court on 09.02.2021 in W.P.No.2538 of 2021. In the event, any intervention is made in the review petition, there can be cancellation in the registration of the compromise decree. Therefore, the original order dated 09.02.2021 made in W.P.No.2538 of 2021 is restored.

7. With the above direction, the Writ Appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

srn
To

1. The Inspector General of Registration,
No.100, Santhome High Road,
Chennai 600 035.



2. The Deputy Inspector General of Registration,
No.50, Sankara Naidu Street,
Thiruppapuliyur, Cuddalore- 607 002.

WEB COPY

3. The District Registrar,
Registration Department,
No.63/40, Perumal Koil Street,
Tindivanam, Viilupuram District 604 001.

4. The Sub Registrar,
O/o.The Sub Registrar,
Mailam, Villupuram District

+1 CC to M/s.Muthumani Doraisami, Advocate, Sr.No. 49410.

+1 CC to The Government Pleader, Sr.No. 49482.

W.A.No.1664 of 2021
and C.M.P.No.10488 of 2021

AJS (CO)
LS (12/10/2021)