



W.A(MD)No.1082 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 21.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

AND

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.A(MD)No.1082 of 2022

and

C.M.P.(MD)No.8646 of 2022

1.S.Senthilkumar

2.S.Jeyalakshmi

3.S.Saravana Kumar

... Appellants / Third Parties

-Vs-

1.Kadhar Moideen

...1st Respondent / Writ Petitioner

2.The Sub Registrar,

Registration Department,

Kodaikanal Registration Office,

Dindigul District.

... 2nd Respondent / Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 16.03.2022 made in W.P(MD)No.4584 of 2022 on the file of this Court.



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For Appellants : Mr.T.Lajapathi Roy
For R1 : Mr.Ajmal Khan, Senior Counsel
for M/s.Ajmal Associates
For R2 : Mr.K.Selva Ganesh,
Additional Government Pleader.

JUDGMENT

[Judgment of the Court was delivered by R.MAHADEVAN, J.)

This Writ Appeal has been filed at the instance of third parties against the order of the learned Single Judge dated 16.03.2022 made in W.P(MD)No. 4584 of 2022.

2.The 1st respondent / writ petitioner has filed the said Writ Petition, seeking to quash the refusal check slip issued by the 2nd respondent herein refusing to register the certified copy of the decree dated 22.10.2019 made in A.S.No.155 of 2018 on the file of the Additional District Court, Palani.

3.The learned Single Judge holding that the issue involved in the Writ Petition is covered by a decision of the Division Bench of this Court in the case of *S.Sarvothaman Vs. Sub Registrar, Oulgaret, Pondicherry, dated 07.12.2019 in W.A.No.336 of 2019*, has quashed the impugned order of the 2nd



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respondent / registering authority and directed him to register the decree presented by the writ petitioner within a period of two weeks.

4.Now, the appellants, who are third parties to the Writ Petition, have filed this Writ Appeal, contending that against the said judgment and decree dated 22.10.2019 made in A.S.No.155 of 2018, an appeal in S.A.(MD)No.612 of 2019 has been preferred before this Court. Suppressing the pendency of the said Second Appeal, the writ petitioner filed the Writ Petition, contending that the decree in A.S.No.155 of 2018 attained finality and obtained an order for registration.

5.We have heard Mr.T.Lajapathi Roy, learned counsel for the appellants, who would submit that pursuant to the order of the learned Single Judge made in WP(MD)No.4584 of 2022, the 2nd respondent has registered the decree presented by the writ petitioner and taking advantage of the same, the writ petitioner is now trying to cut the trees standing in the lands of the appellants.

6.Though the 1st respondent / writ petitioner obtained an order for registration of the decree passed in A.S.No.155 of 2018, stating that the



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judgment in A.S.No.155 of 2018 has attained finality, perusal of the grounds of appeal in S.A.(MD)No.612 of 2019 shows that the Second Appeal is pending against the judgment and decree passed in A.S.No.155 of 2018. Thus, it is clear that suppressing the pendency of the Second Appeal, the writ petitioner has obtained an order for registration. Hence, we direct that the registration done by the 2nd respondent shall be kept in abeyance until the disposal of the Second Appeal.

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

[R.M.D.,J.] & [J.S.N.P.,J.]
21.09.2022

Index: Yes/No

Internet: Yes/No

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To

The Sub Registrar,
Registration Department,
Kodaikanal Registration Office,
Dindigul District.



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AND

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JUDGMENT MADE IN

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