



W.P(MD)No.15402 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.15402 of 2023

and

W.M.P.(MD)No.13001 of 2023

T.Chandra Devi

... Petitioner

Vs.

1.The District Registrar (Administrtion), /
Deputy Inspector General of Registration,
Madurai South, Madurai.

2.The Sub-Registrar,
Solavandhan,
Madurai District.

... Respondents

PRAYER :-

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 1st respondent in his proceedings No. 10698/Aa1/2022 dated 09.12.2022 and consequential order passed by the 2nd respondent RFL/Solavandhan /Book 2/1 dated 16.12.2022 and quash the same as illegal consequentially to direct the respondents to register the order made in E.A.No. 52 of 2022 in E.P.No. 626 of 2018 in O.S.No. 161 of 2012 dated 13.04.2022 on the file of III rd Additional Sub-Court, Madurai within the time frame that may be stipulated by this Court.



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For Petitioners : Mr.V.P.Rajan
Advocate.

For R1 and R2 : Mr.M.Prakash
Additional Government Pleader

ORDER

The writ petition has been filed in the nature of a certiorarified mandamus seeking interference with an order of the first respondent, District Registrar (Administration), Madurai South in proceedings No.10698/AA1/2022 dated 09.12.2022 and the consequential order of the second respondent/ Sub Registrar, Solavanthan, Madurai District in R.F.L./Solavanthan/ Book-II/1 dated 16.12.2022 and direct the respondents to register the order made in E.A.No.52 of 2022 in E.P.No.626 of 2018 in O.S.No.161 of 2012 dated 13.04.2022 on the file of the III Additional Sub Court at Madurai.

2. It is stated that the petitioner had originally filed a suit for partition in O.S.No.161 of 2012. Preliminary decree was granted. Thereafter an application was filed to grant final decree. Final decree was also granted dividing the property into metes and bounds. It is stated that the property which was actually divided and was allotted, was quite small and therefore the parties had entered into a further compromise and had filed E.A.No.52 of 2022 to



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record the compromise. Learned III Additional Sub Judge at Madurai had recorded the compromise and had passed the following order on 13.04.2022.

"Order:

13.04.2022 : All parties and their counsels present.

Identity and Aadhar Cards of all parties verified.

Terms of compromise readover to all parties and they accepted the same. Hence this petition is allowed. Compromise is recorded.

Sd. K.Selvapandi, III Additional Sub Judge,

III Additional Sub Court, Madurai. "

3.This order is an extension of the final decree passed by the Court. Since the parties had decided to remodify the actual division granted by the Court, they had entered into a memo of compromise and this had been lawfully recorded by the Court. This in itself is a decree. Any compromise under Order 23 of the Code of Civil Procedure, leads to decree being drafted. This forms part of the decree already granted namely the final decree which had been granted by the Court.

4. The reasoning of the second respondent is that, he compromise decree has no existence as a decree until it is engrossed on non-judicial stamp paper and placing reliance on AIR 1938 Madras 307, is totally misconceived. It is the learned III Additional Sub Judge, who should ensure whether a decree should



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be engrossed in a non-judicial stamp paper or not. It is not for the Sub Registrar to tell the Court as to the format of a decree and in what paper a decree should be drafted. The Sub Registrar will only have to confine himself to the nature of the property which is the subject matter of registration, examine whether the decree has been passed by the Court and if it is so, then under Section 23 of the Registration Act, 1908, register the decree. The final decree has been engrossed in a non-judicial stamp paper. The subsequent memo of compromise had been recognized by the Court. It is a lawful decree.

5. Therefore the impugned order is set aside and a direction is given to the second respondent to register the memo of compromise which had been presented as one document. The said exercise may be completed within one week from the date on which it is presented by the petitioner, after it is presented in proper procedure.

6. This Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition stands closed.

28.06.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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- To
- 1.The District Registrar (Administrtion), /
Deputy Inspector General of Registration,
Madurai South, Madurai.
 - 2.The Sub-Registrar,
Solavandhan,
Madurai District.



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C.V.KARTHIKEYAN, J.

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ORDER
IN

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