



W.A.Nos.1650 & 1651 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2024

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CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

Writ Appeal Nos.1650 & 1651 of 2021
and
C.M.P.Nos.10402, 10404 and 10406 of 2021

Mr.Boustamine

... Appellant in both W.A's

Vs.

M.Maria Susai

The District Registrar,
Puducherry Registration Department,
Kamaraj Salai, Sakthi Nagar,
Saram, Puducherry – 605 013.

The Sub Registrar,
Office of the Sub Registrar,
Villianur, Puducherry.

... 1 to 3 Respondents in
W.A.No.1650 of 2021

Union of India,
Represented by the Secretary,
Department of Revenue and Disaster Management,
Chief Secretariat, Puducherry.



W.A.Nos.1650 & 1651 of 2021

The District Collector-cum-
Special Secretary (Revenue),
Vazhudavur Road,
Puducherry – 605 009.

The District Registrar,
Puducherry Registration Department,
Kamaraj Salai, Puducherry.

The Sub Registrar,
Villianur Sub Registrar Office,
Villianur, Puducherry.

M.Maria Susai
Marie Emilie Soubachiny

... 1 to 6 respondents in
W.A.No.1651 of 2021

Common Prayer: Writ Appeals filed under Clause 15 of Letters Patent, to set aside the order dated 17.04.2021 passed in W.P.No.24633 of 2019 and W.P.No.11814 of 2020 and thereby allow these writ appeal filed by the appellant.

For Appellant	: Mr.N.Manoharan for Mr.K.Sasindran (in both W.A's)
For R1	: Mr.Sunny Sheen for Mrs.V.Srimathi (in W.A.No.1650 of 2021)
For R2 & R3	: Mr.P.S.Kothandaraman Government Advocate (Puducherry) (in W.A.No.1650 of 2021)
For R1 to R4	: Mr.P.S.Kothandaraman



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W.A.Nos.1650 & 1651 of 2021

Government Advocate (Puducherry)
(in W.A.No.1651 of 2021)

For R5 & R6

: Mr.Sunny Sheen
for Mrs.V.Srimathi
(in W.A.No.1651 of 2021)

COMMON JUDGMENT

(Judgment of the Court delivered by S.M.SUBRAMANIAM,J.)

The common order pronounced on 17.04.2021 in 2 writ petitions are sought to be quashed in the present writ appeals.

2. Originally, one M.Marie Emilie Soubachiny and Er.M.Maria Susai filed W.P.No.27505 of 2019, to direct the respondents in the writ proceedings to consider the representation dated 08.07.2019 and to further direct the respondents to cancel the Document Nos.11559 of 2019, 11561 of 2019 , 11564 of 2019 and Document No.892/19/B4, registered on the file of the Sub Registrar, Puducherry Registration Department.

3. One Boustamine represented by his power agent Mrs.A.Kamala



W.A.Nos.1650 & 1651 of 2021

filed W.P.No.24633 of 2019, to forbear the respondents 1 to 4 therein from registering any document in respect of property comprised in R.S.No.29, 36/6 and 30/2 and situated at Ariyur Village, Puducherry presented by the 5th and 6th respondents in contrary to the Judgment and Decree passed in O.S.No.188 of 2015, on the file of the Principal Sub-Court, Puducherry.

4. The 3rd writ petition was instituted by Er.M.Maria Susai, seeking direction to the respondent to register and return the documents received by in receipts no.122863 and 122864 both dated 26.07.2019 in pending registers No.359 of 2019 and 357 of 2019.

5. Learned Counsel for the appellants would contend that a Civil Suit was instituted for declaration of title and for permanent injunction. The suit was dismissed. The appeal suit in A.S.No.05 of 2020, before the Third Additional District Court, Puducherry has been instituted and sub judiced, When the appeal suit is pending, the Writ Court closed W.P.No.27505 of 2019 and dismissed W.P.No.24633 of 2019, mainly on the ground that the

disputes relating to title are to be adjudicated in the pending appeal suit in



W.A.Nos.1650 & 1651 of 2021

A.S.No.05 of 2020. While dismissing the two writ petitions, the writ Court has allowed W.P.No.11814 of 2020, by issuing a direction to Sub-Registrar to register the consent Deeds both dated 25.07.2019, within two weeks from the date of receipt of a copy of the writ order. In view of the interim stay granted in the present writ petition, the said consent deeds were not considered.

6. Learned Counsel for the appellants would submit that in the event of registering the consent deeds, it would cause prejudice to the writ appellants to establish their case before the first appellate Court in A.S.No.05 of 2020.

7. Learned Counsel for respondents would rely on Section 196 of the Indian Contract Act. However the said provision may be a good ground for the respondents but it is to be raised before the first appellate Court in the pending Appeal Suit.

8. Learned counsel for the appellant would oppose that Rule 54 of the Puducherry Registration Rules was upheld by the Hon'ble Division bench



W.A.Nos.1650 & 1651 of 2021

of this Court. Thus, Registrar is entitled to conduct an enquiry and refuse registration of documents.

9. Registration of consent deeds would restore the rights of the respondents and consequently any further adjudication in the appeal suit will become an empty formality. If the rights of the parties are crystallized in the writ proceedings, the Civil Court may not be in a position to effectively adjudicate the title disputes based on the documents and evidences available on record and independently. Appeal Suit is a continuation of the original suit proceedings. The first appellate Court is empowered to adjudicate the original documents, if necessary, by allowing the parties to file additional documents and examine witnesses and also by framing additional fresh issues under Order 41 Rule 27 r/w Section 31. Therefore, the parties must be given an opportunity to establish their case in the appeal suit. When other two writ petitions are closed and dismissed, the third writ petition alone need not be allowed by directing the Sub-Registrar to register the consent Deeds. The registration of consent Deeds undoubtedly would result in repercussions and would cause prejudice to any of the parties. Thus, all the issues are kept open for effective adjudication of issues based on the documents and evidences on



W.A.Nos.1650 & 1651 of 2021

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10. In view of the above, we are inclined to consider the writ appeal.

Accordingly, the Writ Appeals are **allowed** and Writ Order dated 17.04.2021 passed in W.P.Nos.11814 of 2020 and 24633 of 2019 are aside.

Consequently, connected miscellaneous petitions are closed. No costs.

[S.M.S.J.] [K.R.S.J.]
19.02.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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To

1.The District Registrar,
Puducherry Registration Department,
Kamaraj Salai, Sakthi Nagar,
Saram, Puducherry – 605 013.

2.The Sub Registrar,
Office of the Sub Registrar,
Villianur, Puducherry.

3.Union of India,
Represented by the Secretary,
Department of Revenue and Disaster Management,

Page No.7 of 9



W.A.Nos.1650 & 1651 of 2021

Chief Secretariat, Puducherry.

4.The District Collector-cum-
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W.A.Nos.1650 & 1651 of 2021

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