

WP(MD)No.30152 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02.08.2024

Pronounced on : 16.04.2025

CORAM

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

WP(MD)No.30152 of 2023

and

WP(MD)No.25997 of 2023

D.Kothai

... Petitioner

Vs.

1.The District Registrar,
Virudhunagar.

2.The Sub Registrar,
Aruppukottai Taluk,
Virudhunagar District.

3.T.R.V.Ramkumar

4.D.Senthilkumar

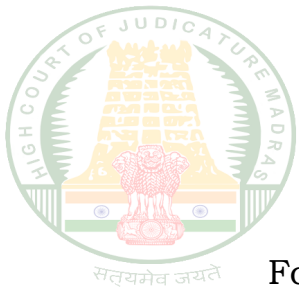
... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India to call for the records of the impugned proceedings of the first respondent dated 18.08.2023 and the consequential order (refusal check slip RFL/APK/2023) dated 20.09.2023 issued by the second respondent and quash them as illegal, arbitrary and without jurisdiction and further direct the second respondent to register the memorandum of settlements / Award dated 21.04.2023 passed by the Arbitrator.

For Appellant

: Mr.H.Lakshmi Shankar

for Mr.I.Irulappan



WP(MD)No.30152 of 2023

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For Respondents

: Mr.R.Baskaran,
Additional Advocate General assisted by
Mrs.D.Farjna Ghousia
Spl Government Pleader for R1 and R2

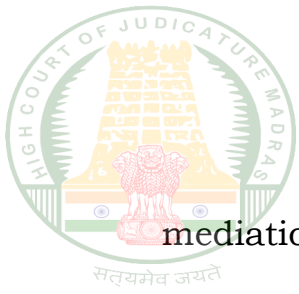
Mr.K.Govindarajan for R3

Mr.P.H.Arvinth Pandian, Senior Counsel
assisted by Mr.A.Sivasubramanian for R4

ORDER

After hearing both sides, order was reserved. The counsel on either side requested the court to defer pronouncing order till the resolution of certain other outstanding issues. Since till date, such settlement has not been reported, I have to necessarily dispose of this writ petition.

2.The petitioner and her parents filed CrI OP(MD)Nos.14601, 14798, 14810 and 18089 of 2021 seeking certain reliefs following the registration of criminal cases at the instance of the third respondent herein. On the eve of the disposal of the petitions, counsel on either side submitted that to give a quietus to all the pending matters, the parties were willing to have them mediated. They unanimously chose Hon'ble Mr.Justice K.Kannan (retd) as mediator. Accordingly, vide order dated 10.12.2021, the matter was referred for mediation. The



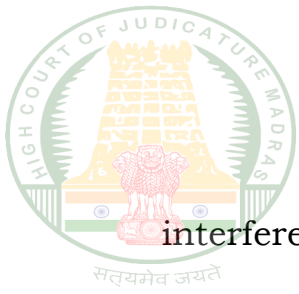
WP(MD)No.30152 of 2023

mediation was successful culminating in the execution of two memoranda of settlements dated 18.04.2023.

3. Based on the same, the mediator/arbitrator passed award on 21.04.2023. The same was presented for registration before the Sub Registrar, Aruppukottai on 07.07.2023. The second respondent sought advice from the District Registrar, Virudhunagar. The District Registrar, Virudhunagar vide communication dated 18.08.2023 clarified that the registering authority should abide by the terms of the letter No.56254/C1/2011 dated 12.02.2012 issued by the I.G of Registration, Chennai. Thereupon, the impugned refusal check slip was issued. Challenging the same, this writ petition came to be filed.

4. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to quash the impugned refusal check slip and direct the second respondent to register the memorandum of settlements / award dated 21.04.2023.

5. Per contra, the Additional Advocate General appearing for the official respondents and the learned counsel appearing for the third respondent submitted that the impugned order does not call for

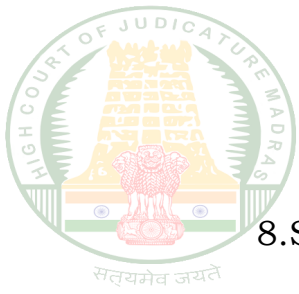


WP(MD)No.30152 of 2023

interference. The learned counsel for the third respondent contended that the understanding between the parties was that one more agreement also has to be signed and that therefore, granting relief to the petitioner herein may confer undue advantage on her.

6.I carefully considered the rival contentions and went through the materials on record. The learned counsel appearing for the private respondents are undoubtedly right in their contention that it would be desirable and in the fitness of things if all the outstanding issues are resolved. That is why, I also deferred pronouncing order in this case. Since such a prospect may not materialise immediately, I have to necessarily answer the legal issue posed for consideration. The only question that calls for consideration is whether the award passed by the Hon'ble Mediator can be registered.

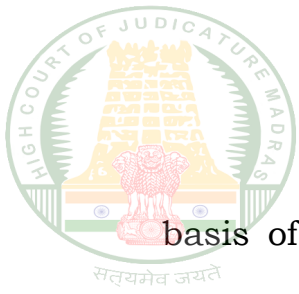
7.The parliament had enacted The Mediation Act, 2023 and it came into force on 09.10.2023. Section 19 of the Act deals with mediated settlement agreements and Section 20 of the Act deals with its registration. Since the award of the mediator was passed on 21.04.2023 ie., prior to the passing of the Act, I need not refer to or rely on the statutory provisions of Central Act 32 of 2023.



WP(MD)No.30152 of 2023

8. Section 17 of the Registration Act catalogues those documents that are compulsorily registrable. I am satisfied that the subject award of the Hon'ble Mediator recording the two mediation settlement agreements would not fall within any of the clauses or sub-sections of Section 17. Section 18 of the Registration Act after listing six categories of documents/transactions states that all other documents not required by Section 17 to be registered may be registered. In other words, registration is left to the option of the parties. The case on hand falls under the aforesaid category (Section 18(f)). Therefore, the petitioner herein was entitled to present the award of the mediator for registration.

9. The registering authority chose to refuse registration by relying on the circular dated 12.05.2012 issued by the I.G of Registration. The said circular has been issued pursuant to the order dated 22.02.2012 in WP No.18489 of 2011. The circular reads that the award issued by the arbitrator need not be taken on file and that only the sale deed/sale certificate executed by the executing court in execution proceedings should be received for registration. As rightly pointed out by the learned counsel for the petitioner, the subject matter pertains to an award passed in a claim for specific performance. The case on hand pertains to an award passed on the



WP(MD)No.30152 of 2023

basis of the mediated settlements entered into between the parties.

The circular dated 12.05.2012 has no application whatsoever to the case on hand. That apart, when Section 18(f) of the Registration Act gives right to the petitioner to present a document for registration at her option, such a right cannot be deprived by the registering authority by citing a circular. As per the doctrine of hierarchy of laws, a circular cannot prevail over a statute.

10.The stand of the official respondents is that the petitioner can avail the appeal remedy. There is no merit in this objection. As rightly contended by the learned counsel for the petitioner, no purpose would be served by relegating the petitioner to avail the alternative remedy because the registering authority acted at the behest of the appellate authority.

11.In this view of the matter, the impugned refusal check slip is quashed. The petitioner is permitted to re-present the document if it has already been returned. The second respondent shall register the same without any delay.



WP(MD)No.30152 of 2023

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12.This writ petition is allowed accordingly. No costs. Connected miscellaneous petition is closed.

16.04.2025

Index : Yes / No
Internet : Yes/ No
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To:

- 1.The District Registrar,
Virudhunagar.
- 2.The Sub Registrar,
Aruppukottai Taluk,
Virudhunagar District.



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WP(MD)No.30152 of 2023

G.R.SWAMINATHAN, J.

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