
(1920) 04 MAD CK 0010
In the Madras High Court

Thazhathitathil Poovvanayi Ayissa and Others

APPELLANT

Vs

Puthan Purayil Kundron Chokru

RESPONDENT

Date of Decision : 29-04-1920

Acts Referred:

Registration Act, 1908 — Section 17(2)

Citation : (1920) ILR (Mad) 688 : 58 Ind. Cas. 554 : (1920) 12 LW 35 : (1920) 39 MLJ 77

Judgement

1. Where, as in the present case after decree, a petition has been presented under Order 21 Rule 2 to the Court whose duty it was to execute the decree, certifying, as required by the Rule, that the decree has been adjusted and praying that the petition, setting out the terms on which the decree has been adjusted, should be recorded, and the order ""record"" has been passed upon it, the order must be read as referring to the petition which it would have set out in full if it had been formally drawn up. It is in effect an order that the petition should be recorded as certifying the adjustment of the decree on the terms stated in the petition, in compliance with the requirements of the Rule. In these circumstances the petition is exempted from registration by virtue of the exception in Sub- Section 2 of Section 17 of the Indian Registration Act in favour of ""any decree or order of a Court,"" and the question referred to us must be answered in the affirmative. The recent decision of the privy Council in 24 CWN 177 (Privy Council) has settled the differences of opinion which are referred to in the order of reference as to the interpretation of Lord Macnaughten's judgment in Pranal Anni v. Lakshmi Anni ILR (1899) M 508 . Their Lordships point out that the word "" decree "" in Section 17 of the Registration Act "" must be read in connection with the purpose of the statute, which is to

provide a method of public registration of documents, and there is therefore no reason why a limit should be imposed on the meaning of the word so as to confine it to the operative portion only of the decree." The same reasoning of course applies to the other word "order" with which we are now concerned. Their Lordships proceed to distinguish their earlier decision in (1894) ILR 21 882 (Privy Council) on the ground that in that case the order on the compromise petition had not in fact narrated or referred to the razinamah in so far as it mentioned lands which were not the subject of the suit, whereas in the case before them the decree recited the petition for compromise and set out its terms in full. That decree, they held, made no difference between one part of the compromise and another but incorporated the whole ; or in other words, was a decree which, though affecting the lands in suit as decree, incorporated the whole agreement which led to the suit being compromised. Registration of the agreement was therefore unnecessary, as the decree was sufficient evidence of its terms. This decision entirely covers the present case and we must answer the question in the affirmative and overrule the decision on this question in Chelamanna v. Rama Rao ILR (1911) Mad. 46 and Umade Rajah Raji Damara Kumara Chinna Venkatappa Nayanam Bahadur Varu Vs. Umade Rajah Raji Damara Kumara Thimma Nayanam Bahadur Varu and Others, which followed it.