

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.13080 of 2015

C.Ramakrishnan

.. Petitioner

-Vs-

1.The District Registrar,
Tiruppur, Tiruppur District.

2.The Sub Registrar,
Avinashi, Tiruppur District.

.. Respondents

Petition filed under Article 226 of The Constitution of India, praying for the issuance of a Writ of certiorarified mandamus to call for the records made in the impugned order No.2/2015 dated 31.03.2015 passed by the second respondent, quash the same and further direct the respondents to register the certified copy of the final decree dated 28.08.2014 in O.S.No.159/2007 on the file of District Munsif (Training), Additional District Munsif Court, Tiruppur.

For Petitioner ... Mr.S.P.Sudalaiyandi

For Respondents .. Mr.R.Vijayakumar,
Addl. Govt. Pleader

ORDER

By consent, the writ petition itself is taken up for final disposal.

2.The petitioner claims that he has taken over the possession of the property in Kanakkampalayam Village, Survey No.215/2, second item, Site No.54 admeasuring to an extent of 0.05 cents - 220 sq.ft. with superstructure thereon and subsequently, one Ayesha Beevi filed O.S. No.159 of 2007 for cancellation of the sale deed and for other consequential reliefs. The suit was ultimately dismissed on 28.08.2014 and thereafter, the petitioner approached the second respondent for recording the decree dated 28.08.2014.

Since it has been rejected on the ground of belated transaction, he came forward to file this writ petition.

3.Learned counsel appearing for the petitioner has drawn the attention of this Court to the judgment rendered by the Division Bench of this Court in A.K.Gnanasankar Vs. Joint II Sub Registrar, Cuddalore (2007(2)TCJ 28) and would submit that in the light of the said pronouncement, the impugned order, on the face of it, is unsustainable and prays for interference.

4.The Court heard the submissions of Mr.S.P.Sudalaiyandi, learned counsel appearing for the petitioner and Mr.R.Vijayakumar, learned Additional Government Pleader, who accepts notice for the respondents.

5.It is relevant to extract para 8 of the judgment of the Division Bench of this Court in A.K.Gnanasankar Vs. Joint II Sub Registrar, Cuddalore (2007 (2) TCJ 28), which reads as under:

"8.It is useful to refer Section 23 of the Registration Act which speaks about the time for presenting documents and reads as follows:

"23.Time for presenting documents:-

Subject to the provisions contained in Sections 24, 25 and 26, no document other than a Will shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution:

Provided that a copy of a decree or order may be presented within four months from the day on which the decree or order was made, or, where it is appealable, within four months from the day on which it becomes final."

The above provision makes it clear that all documents except Will are to be presented before a proper officer and the same shall be presented within four months from the date of its execution. If we consider the date on which the final decree was passed by the Subordinate Court, as rightly pointed out by the learned Government Advocate, the document presented before the respondent is hopelessly barred by time.

However, the Proviso appended to Section 23 makes it clear that a copy of decree or order may be presented within four months from the day on which it was made or whether it is appealable within four months from the date on which it becomes final. It is not in dispute that unless the parties to the proceedings deposit the required stamps, final decree cannot be drafted. Taking into consideration the difficulties expressed, ultimately the Court concerned accepted the case of the

appellant/petitioner/first defendant and extended the time for depositing the required stamps. In view of the said order, which we have already adverted to, we are of the view that the appellant/petitioner has satisfied the condition prescribed in Section 23 of the Registration Act and we are unable to accept the contrary conclusion arrived at by the learned Judge.

When there is no dispute that the certified copy of the final decree will not be issued unless it is engrossed on the required stamp papers and in view of the fact that after getting certified copy of the decree duly engrossed on the stamps, the petitioner presented the same before the respondent within the period prescribed in Section 23 of the Registration Act, we are of the view that the respondent ought to have registered the document, if the same is otherwise in order."

6.In the light of the said pronouncement, the impugned order is liable to be set aside.

7.In the result, the writ petition is partly allowed and the impugned order dated 31.03.2015 is set aside and the matter is once again remanded to the second respondent for fresh consideration in the light of the above said judgment. The second respondent is directed to do the said exercise within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

सत्यमेव जयते Sub Asst. Registrar

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To

1.The District Registrar,
Tiruppur, Tiruppur District.

2.The Sub Registrar,
Avinashi, Tiruppur District.

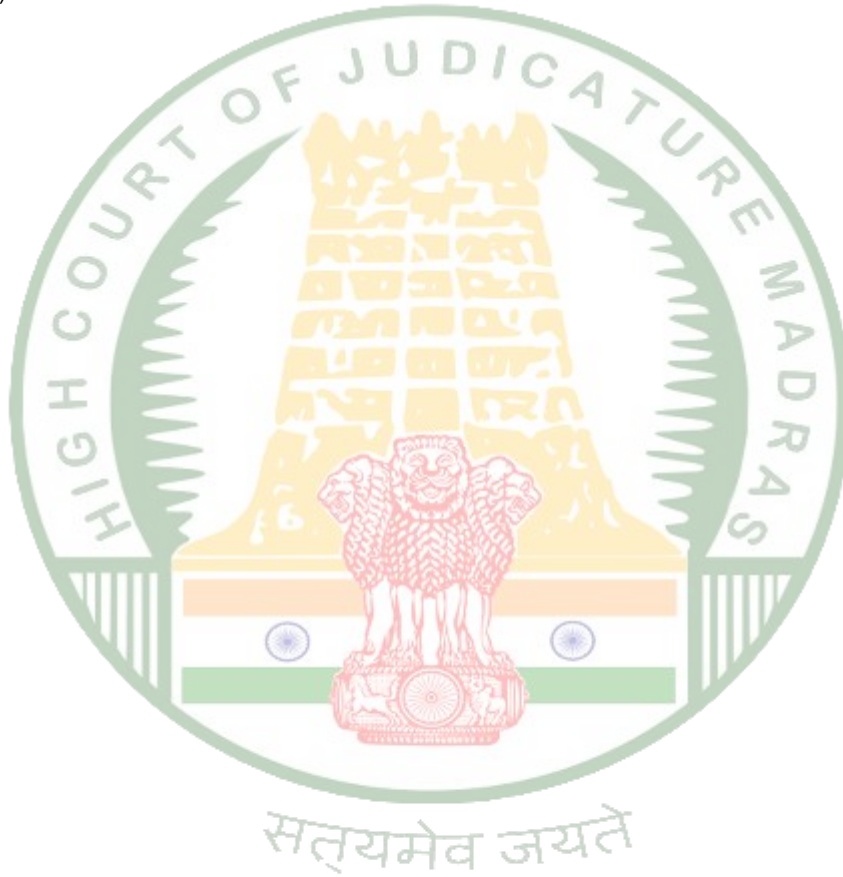
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3. The District Munsif (Training)
Additional District Munsif Court, Tiruppur

1 cc to M/s. S.P. Sudalaiyandi, Advocate, Sr. 23798
1 cc to Government pleader, Sr. 24217

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RSK (CO)
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