

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 20.06.2016

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.20822/2016 & WMP.No.17840/2016

Govindammal

.. Petitioner

Versus

1.The District Registrar of Krishnagiri
[Administration], O/o.The District
Registrar, Krishnagiri.

2.The Joint II Sub Registrar of Krishnagiri
O/o.The Sub Registrar, Krishnagiri. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of certiorari calling for the records relating to the order of the Joint II Sub Registrar, Krishnagiri, in check Slip No.1/2015 dated 26.10.2015 and confirmed by the District Registrar, [Administration], Krishnagiri in Oo.Mu.No.6151/Aa.1/2015 dated 04.12.2015 and quash the said orders.

For Petitioner	:	Mr.N.E.A.Dinesh
For Respondents	:	Mr.R.Vijayakumar, AGP

ORDER

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

2 The petitioner, as a plaintiff, instituted a suit in OA.No.261/2013 on the file of the Court of the District Munsiff, Krishnagiri, against Tvl.T.H.Muneer Ahamed Sahi, T.H.Gafeer Ahamed, M.Muniraj and C.V.Radhakrishnan, praying for declaration, declaring the common way right of plaintiff to have access to suit "A" Schedule property through the Sippayur Road which is situated in "C" Schedule Property and to grant permanent injunction restraining the 4th defendant therein and his men from in any manner, to obstruct the petitioner or her men in suit "C" Schedule property to have access to suit "A" Schedule Property and further, to declare the nominal sale deed dated 28.09.2012 created in the name of the 4th defendant bearing Document No.3237/2012, registered in the office of the Sub

Registrar, Krishnagiri Joint-II, as null and void and to grant permanent injunction restraining the 4th defendant and his men from in any manner altering or encroaching the suit "C" Schedule property. The said suit was decreed ex-parte on 13.06.2014 and no steps have been taken to set aside the said ex-parte decree and therefore, the said decree had become final. The petitioner applied for the certified copy of the judgment and decree vide CA.No.2191/2014 on 17.06.2014 and the same was made ready and taken delivery on 14.08.2014. The petitioner, on receipt of the certified copy of the decree and on perusal of the same, found that the prayer made in the suit, which should have been incorporated in the decree, have been omitted and therefore, again applied afresh for the certified copy of the decree on 27.08.2015 in CA.No.4772/2015 and it was made ready and delivered on 01.09.2015. The petitioner presented the said decree for registration before the 2nd respondent and it was returned on the ground that the same came to be presented for registration after four months from the date of decree and therefore, it cannot be registered. Challenging the legality of the order, the petitioner has filed the present writ petition.

3 Mr.N.E.A.Dinesh, learned counsel for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that the decree in CA.No.2191/2014 furnished to the petitioner, admittedly does not contain the prayer sought for by the petitioner and therefore, she was constrained to file a fresh application to get the correct copy of the decree, vide Copy Application No.4772/2015 on 27.08.2015 and it was made ready and delivered on 01.09.2015 and therefore, the petitioner is not at fault and prayed for setting aside of the order with a further direction, directing the 2nd to register the said decree.

4 This Court heard the submissions of Mr.R.Vijayakumar, learned Additional Government Pleader who accepts notice on behalf of the respondents, who would submit that as per the proviso to section 23 of the Tamil Nadu Registration Act, 1908, the copy of the decree or order have to be presented within four months from the date on which the decree or the order is made ready and insofar as the case on hand, the said decree was presented for registration with a delay and therefore, it was rightly rejected by the 2nd respondent.

5 This Court considered the rival submissions and also perused the materials placed before it.

6 As rightly contended by the learned counsel for the petitioner, the certified copy of the decree furnished to the petitioner vide CA.No.2191/2014 does not contain the prayer sought for by the petitioner in the suit and therefore, she was

constrained to apply afresh vide CA.No.4772/2015 and it was made ready and delivered on 01.09.2015. In the light of the above facts and circumstances, the petitioner is not at fault.

7 It is also a settled position of law that for the mistake committed by the Court, the party cannot be made to suffer. In the light of the facts and circumstances, this Court is of the considered view that the impugned order warrants interference.

8 In the result, the writ petition is allowed and the impugned order passed by the 2nd respondent in Check Slip No.1/2015 dated 26.10.2015, confirmed by the 1st respondent in Oo.Mu.No.6151/Aa.1/2015 dated 04.12.2015, is set aside. The 2nd respondent is directed to take the amended decree dated 01.09.2015 in CA.No.4772/2015 on file and register the same, if the papers are otherwise in order. It is made clear that the said exercise shall be completed by the 2nd respondent within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

- 1.The District Registrar of Krishnagiri
[Administration], O/o.The District
Registrar, Krishnagiri.
- 2.The Joint II Sub Registrar of Krishnagiri
O/o.The Sub Registrar, Krishnagiri.

+1cc to Mr.V.Nicholas, Advocate, S.R.No.33855
+1cc to the Government Pleader, S.R.No.34136

W.P.No.20822/2016

pvs[col]
srg 14/07/2016