

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2016

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.25677 of 2016

T.Anjana Reddy

... Petitioner

Vs.

1 Inspector General of Registration,
No.100, Santhome High Road,
Mylapore, Chennai - 600 028.

2 The Sub-Registrar,
Kelamangalam.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records in proceedings no.Ma.Ku.No.277/2016, dated 08.07.2016, on the file of 2nd respondent and quash the same as illegal, incompetent and wholly without justification and further direct the 2nd respondent to register the decree in A.S.19 of 2013, on the file of Sub Court Hosur, dated 08.07.2016.

For Petitioner : Mr.V.Raghavachari

For Respondents : Mr.R.A.S.Senthilvel

Additional Government Pleader

O R D E R

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

2.The petitioner would state that one Sasikala, Anita and Sunita had filed O.S.No.194 of 2007 on the file of the District Munsif Court, Denkanikottai praying for partition and separate possession and also to declare that the partition deed dated 30.10.1998 as null and void and the said suit was decreed on 18.11.2013 and challenging the legality of the judgment and decree, the petitioner/ defendant in the said suit filed A.S.No.19 of 2013 along with I.A.No.42 of 2013 for reception of additional evidence before the Sub Court, Hosur and the appeal was allowed vide judgment and decree dated 07.09.2015 and according to the learned counsel appearing for the petitioner, no further challenge has been made by way of second appeal and it has become final.

3.The learned counsel appearing for the petitioner would submit that after obtaining the judgment and decree, it was presented before the second respondent for registration of the same and it was returned vide impugned endorsement dated 08.07.2016 stating that it has been presented beyond the time prescribed under Section 24 and 25(1) of the Registration Act and challenging the legality of the same, the petitioner has filed this writ petition.

4.The learned counsel appearing for the petitioner would submit that the judgment and decree of the lower Appellate Court is dated 07.09.2015 and the certified copy of the same were made ready on 09.09.2015 and as per proviso to Section 23 of the Registration Act, 1908, 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" and in the light of the same, the decree has reached its finality during December, 2015 and it was presented for registration during June, 2016 and therefore, the stand taken by the second respondent, is not in order and prays for interference.

5.This Court heard the submissions of Mr.R.A.S.Senthilvel, learned Additional Government Pleader who accepts notice on behalf of the respondents and he would submit that since it has been belatedly presented without adducing any proper and admissible reason, it was properly returned vide impugned order.

6.This Court has carefully considered the rival submissions and also perused the materials placed before it.

7.It is relevant to extract Section 23 of the Registration Act, 1908 hereunder:

"23.Time of 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."

8.As per the said proviso, if it is a decree or order and if it is appealable, it should be presented within four months from the date on which it has become final and as per the Limitation Act, it is three months from the date on which it has become final and according to the learned counsel appearing for the petitioner, no further challenge has been made to the judgment

and decree in A.S.No.19 of 2013 and I.A.No.42 of 2013 and the judgment and decree were presented for registration during June, 2016 and therefore, it is well within the time limit.

9.Alternatively, it is the submission of the learned counsel appearing for the petitioner that even though in the argument it has been argued, that the period prescribed under proviso to Section 23 of the Registration Act is within four months from the date on which it has become final, still the second respondent is having power under proviso to Section 25 of the Registration Act to condone the delay until four months and on that ground also, the impugned order warrants interference.

10.This Court find force in the said submission of the learned counsel appearing for the petitioner. In the light of proviso to Section 23 read with Section 25(1) of the Registration Act, this Court is of the view that the reason assigned by the second respondent in the impugned return slip is not in order and therefore, warrants interference.

11.Therefore, this writ petition is allowed and the impugned order dated 08.07.2016 is quashed. The petitioner shall represent the judgment and decree dated 07.09.2015 before the second respondent, within a period of one week from the date of receipt of a copy of this order and if the papers are otherwise in order, the second respondent shall entertain the same and shall pass orders in accordance with law and in the light of the observations made in this writ petition, within a further period of two weeks thereafter and communicate the decision taken, to the petitioner. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

pri

To

- 1 Inspector General of Registration,
No.100, Santhome High Road,
Mylapore, Chennai - 600 028.
- 2 The Sub-Registrar, Kelamangalam.

+1cc to Mr.V.Raghavachari, Advocate, S.R.No.41752

+1cc to the Government Pleader, S.R.No.41963

SKV(CO)

EU(16/08/2016)

W.P.No.25677 of 2016