

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 2.6.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.7041 of 2016

P.M.Jayamurugan

... Petitioner

versus

1.The Sub Registrar,
Perunthurai,
Erode District.

2.The District Registrar,
Karungalpalam,
Erode District

... Respondents

Writ Petition filed under Art.226 of the Constitution of India praying for a Writ of Certiorarified Mandamus Calling for the records pertaining to the proceedings of 2nd respondent vide Na.Ka.No.147/Al/15 dated 21.01.2016 to quash the same and direct the respondents to register the documents submitted under the check memo Nos.2 3 4/15 forth with and release the documents at the earliest to enable the petitioner to take part in on going civil proceedings as per the direction of this Honourable High Court in M.P.No.5/2015 in W.P.No.11482/2014 order dated 28.10.2015.

For petitioner

Mr.V.Manohar

For respondents

Mr.P.Sanjai Gandhi, A.G.P.

सतयमेव जयते
O R D E R

By consent, the Writ Petition is taken up for final disposal. The facts in detail leading to the filing of the Writ Petition had been discussed in extenso in the order dated 28.10.2015 in M.P.No.5 of 2014 and therefore, it is not necessary to restate the facts once again.

2. The learned counsel for the petitioner would submit that in pursuance to the restrictions imposed in paragraph 10 of the order in M.P.No.5/2014 dated 28.10.2015, the petitioner herein re-presented the sale deeds. But, however, they were returned on 6.1.2016 by the first respondent stating among other things, the sale deed has not been presented within a period of four months as per the provisions of the Registration Act and that it is not in consonance with the circular of the Inspector General of Registration in No.18223/C1/13-3 dated 8.11.2013 and the petitioner was also granted liberty to file an appeal before the District Registrar.

3. It is the further submission of the learned counsel for the petitioner that accordingly, the petitioner filed an application before the second respondent on 6.1.2016, giving out reasons as to why the sale deeds require registration and however, the second respondent vide the impugned order dated 21.1.2016, rejected the appeal, by once again citing the circular of I.G. Of Registration in No.18223/C1/13-3 dated 8.11.2013 and also on the ground that it is also not in tune with the observations made in the order disposing W.P.No.11482 of 2014.

4. The learned counsel for the petitioner has drawn the attention of this Court to the clarificatory order which came to be passed on 28.10.2015, in W.P.No.11482 of 2014 and would submit that the interest of the petitioner as well as rival claimants viz., respondents 1 to 13 have been taken note of by the learned Judge and in paragraph 10(iv) of the order. The learned Judge has observed as follows :-

"(iv) It shall not be construed if the Registrar cannot retain the sale deed for any other reason including under Section 47A of the Stamp Act. The Registrar shall also take into consideration the subsequent letter given by the parties for the continuation of the original power of attorney."

(v) The question of alleged fraud committed shall not be given a go-by and it shall be decided by the civil court. The fraud pleaded will be considered by the Civil Court.

(vi) Any observation made in this order will not affect the Civil Court in concluding the case. The Civil Court shall independently consider the merits of the case without being influenced by this order.

5. The learned counsel for the petitioner submitted that in the light of the safeguards provided, there may not be any impediment on the part of the respondents to register the sale deed, and prays for a direction to the respondents to register the sale deeds.

6. Per contra, the learned Government Advocate would submit that since sale deeds were presented after four months from the date of execution, it was rightly rejected and it was not in tune with the circular of I.G. Of Registration No.11482/2014, and prays for dismissal of this Writ Petition.

7. This Court has considered the rival submissions.

8. It is to be stated at this juncture that the Writ Petition was disposed of on 25.8.2014 and thereafter, clarification petition was filed in M.P.No.5/2015 and it came to be disposed of on 28.10.2015. As per the clauses extracted

above, in my considered opinion, there cannot be of any impediment on the part of the first respondent to register the sale deed in question and the said order also protects the interest of the petitioner as well as the rival claimants viz., respondents 1 to 13 therein.

9. Insofar as the the non presentation of the documents within four months from the date of execution is concerned, it is relevant to extract Section 25 of the Registration Act.

25. Provision where delay in presentation is unavoidable

(1) If, owing to urgent necessity or unavoidable accident, any document executed, or copy of a decree or order made, in [India] is not presented for registration till after the expiration of the time herein before prescribed in that behalf, the Registrar, in cases where the delay in presentation does not exceed four months, may direct that, on payment of a fine not exceeding ten times the amount of the proper registration-fee, such document shall be accepted for registration.

(2) Any application for such direction may be lodged with Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

10. In my considered opinion, Section 25 speaks only about the presentation. But the facts on hand would disclose that the sale deed was executed on 6.10.2014 and it was presented for registration on 8.10.2014 and check memo was issued on 8.10.2014. Clarificatory order in M.P.No.5/2014 was passed on 25.10.2015 and the sale deed was once again re-presented on 7.12.2014. In accordance with the said order, check memo was once again issued on 18.12.2015 and the petitioner has submitted a representation on 30.12.2015. On 6.1.2016, the request for registration of the sale deed was rejected and the petitioner filed an appeal under Section 6 and it came to be disposed of in terms of the impugned order dated 21.1.2016. Therefore, technically speaking, it would not be construed as presented but only re-presented and even otherwise, the Registrar is having discretionary power to condone the delay for registration of the sale deed in the light of the judgment of this Court in *Rasammal vs. Pauline Edwin*, 2011(2) MLJ 57(Mad.).

11. In the result, the impugned order is set aside and the first respondent is directed to take note of paragraph ten of the order dated 28.10.2014 in M.P.No.5/2014 in W.P.No.1148 of 2014 and register the three sale deeds to be presented by the petitioner, if the papers are otherwise in order. It is made clear that the registration of the sale deeds is subject to the outcome of the civil litigations pending before the civil court and also in terms of the observations made in paragraph 10 of the order in M.P.No.5 of 2014 in W.P.No.11482 of 2014 dated 28.10.2015.

12. The Writ Petition is allowed. No costs. Consequently,
W.M.P.No.6253 of 2016 is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

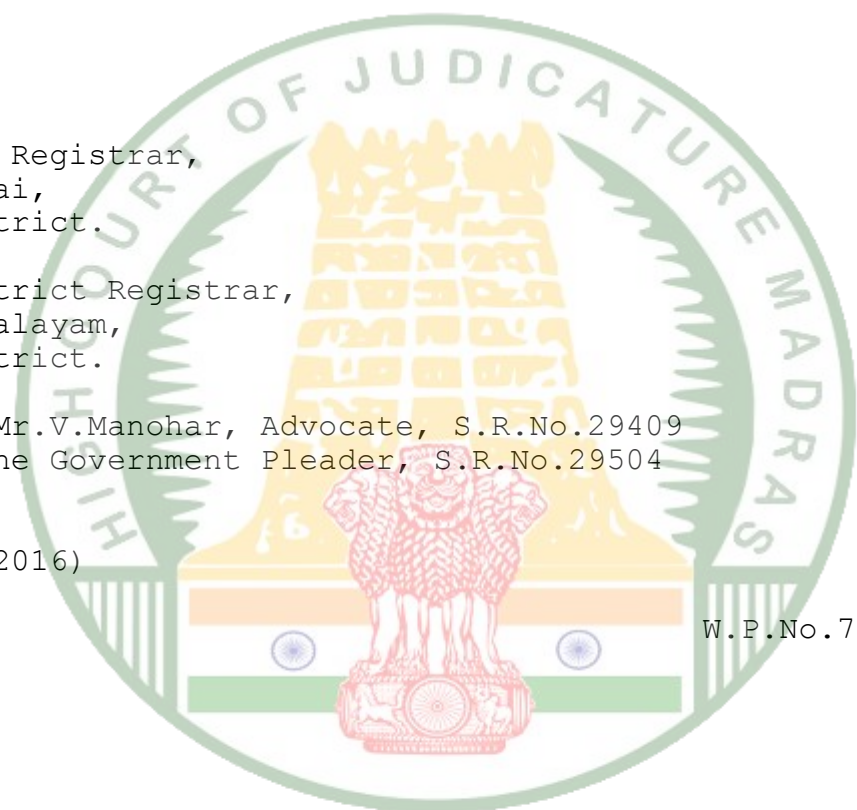
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2.The District Registrar,
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Erode District.

+2ccs to Mr.V.Manohar, Advocate, S.R.No.29409
+1cc to the Government Pleader, S.R.No.29504

BVR(CO)
EU(22/06/2016)

W.P.No.7041 of 2016

The seal of the High Court of Judicature Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital of Ashoka in front of it. The lion capital is set against a background of the Indian national flag's saffron, white, and green horizontal stripes. The words "HIGH COURT OF JUDICATURE MADRAS" are inscribed in a green border around the central image. Below the seal, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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