

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.8255 of 2016

1. K.Saroja
2. R.Kalaivani
3. K.Kannan
4. K.Sekar

.. Petitioners

Vs.

1. The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 028.
2. The Sub-Registrar,
Adyar Sub-Registrar Office,
Chennai-600 020.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the second respondent to register the judgment and decree, dated 03.02.2014 made in O.S.No.5005 of 2013 by the Second Assistant City Civil Court, Chennai, presented in the office of the second respondent on 16.07.2014, in view of the petitioners' representation, dated 30.01.2016.

For Petitioners : Mr.J.Ashok

For Respondents : Mr.S.Navaneetham, Addl.G.P.

ORDER

The petitioners have filed this Writ Petition praying for issuance of a Writ of Mandamus to direct the second respondent to register the judgment and decree, dated 03.02.2014 made in O.S.No.5005 of 2013 on the file of the Second Assistant City Civil Court, Chennai, presented in the office of the second respondent on 16.07.2014, in view of the petitioners' representation, dated 30.01.2016.

2. It is the case of the petitioners that they owned the property bearing Door No.27, New No.52, First Street Extension, Parameshwari Nagar, situated in Urur Village in R.S.Nos.72 and 73 and in part of T.S.No.22, measuring an extent of 780 Sq.Ft., which is within the Registration District of Madras and Sub-

Registrar Office, Adyar, having been obtained by them by legacy and they are in absolute possession and enjoyment and paid property tax, etc. When the petitioners intended for partition of the property and when presented a Deed of Partition in the office of the second respondent, the same was rejected for want of previous documents and they were advised to get a declaration on title pertaining to the property in their favour so as to register the Deed of Partition. Hence, the petitioners along with other legal heirs, filed a suit for declaration to declare that they are in adverse possession of the suit property absolutely, in O.S.No.5005 of 2013 against the original owner of the suit property (defendant) and the learned Second Assistant Judge, City Civil Court, Chennai, decreed the said suit ex-parte in petitioners' favour on 03.02.2014. The petitioners applied for the copy of the said judgment and decree, which was obtained on 03.03.2014 and on receipt of the same, though the petitioners could not present it before the second respondent due to financial crunch and their mother's ill-health, for registration within the time limit, however they presented it only on 16.07.2014, which is after the period of four months and since the petitioners have misplaced the said judgment and decree copies, they again obtained the copy of the said judgment and decree only on 04.11.2015, which was not considered by the respondents on the ground that the same is not permissible under law. It is the grievance of the petitioners that the time prescribed under Section 23 of the Registration Act does not apply to the judgment and decree of the Civil Court. Hence, the petitioners have preferred a representation, dated 30.01.2016 to the respondents to register the said judgment and decree and since the said representation is pending, they have filed this Writ Petition for the above relief.

3. Heard both sides.

4. When the Writ Petition is taken up for consideration, learned counsel for the petitioners relied on a judgment of this Court in W.P.No.9352 of 2015 (B.Vijayan Vs. The District Registrar, Office of the District Registrar, Chennai South, Jeans Road, Saidapet, Chennai-600 015 and another), dated 31.03.2015, wherein, this Court observed as under in paragraph 8:

"8. It is noteworthy to point out that in the case of A.K.Gnanasekar (A.K.Gananasekar Vs. The Joint-2 Sub-Registrar, Cuddalore-2), reported in 2007 (2) TCJ 68, wherein, this Court has held that limitation prescribed for presenting documents does not apply to decree, as decree is a permanent record of Court and to register the case, no limitation can be prescribed."

5. The dictum laid down by this Court in the order, dated 31.03.2015 in W.P.No.9352 of 2015, based on the judgment of the Division Bench of this Court, reported in 2007 (2) TCJ 68 (cited supra), is squarely applicable to the facts of the present case and therefore, the respondents cannot deny to register the said judgment and decree.

6. At this stage, the learned Additional Government Pleader appearing for the respondents submitted that since the decree is an ex-parte decree, whether the defendant has filed an application to set aside the said ex-parte decree and whether the said ex-parte decree was already set aside or not, is not known to the respondents, and therefore, it would lead to problem if the said ex-parte is registered before the Registrar. Hence, he submitted that the mandamus as prayed for by the petitioners may not be issued.

7. Though this Court is not inclined to give any positive direction, but directs the second respondent to consider the said representation, dated 30.01.2016 preferred by the petitioners and after conducting enquiry and giving an opportunity of personal hearing to the petitioners and to all other necessary parties, the second respondent is directed to pass appropriate orders and dispose of the said representation, on merits and in accordance with law, within a period of two weeks from the date of receipt of a copy of this order, in the light of the order of this Court, dated 31.03.2015 in W.P.No.9352 of 2015 (cited supra) and the judgment of the Division Bench of this Court, reported in 2007 (2) TCJ 68 (cited supra).

8. With the above observations and directions, the Writ Petition is disposed of. No costs.

cs

Sd/-

Asst.Registrar

/true copy/

WEB COPY

Sub Asst. Registrar

TO

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

2. The Sub-Registrar,
Adyar Sub-Registrar Office,
Chennai-600 020.

+ 1 CC TO MR.J.ASHOK, ADVOCATE SR 14437

+ 1 CC TO THE GOVT.PLEADER, SR 14955

KR/16/3/16

W.P.No.8255 of 2016



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