



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2016

CORAM

THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.P.(MD) No.16169 of 2016

J.Selvin Antony

.. Petitioner

vs.

1.The District Registrar,
Cheranmadevi Registration District,
Cheranmadevi,
Tirunelveli District.

2.The Sub-Registrar,
Vikramasingapuram,
Ambasamudram Taluk,
Tirunelveli District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records relating to check slip dated 10.08.2016 issued by the Sub-Registrar, Vikramasingapuram, the Second Respondent and quash the same and consequently, direct the Second Respondent to accept the document being the final decree made in I.A.No.243 of 93 in O.S.No.46 of 1979 on the file of Additional Sub-Judge, Tirunelveli, presented by the Petitioner for registration and return the same after registration within the time frame as may be fixed by this Court.

For Petitioner : Mr.A.V.Arun

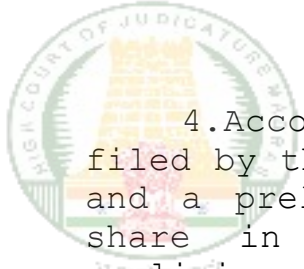
For Respondents : Mr.K.Mahesh Raja
Government Advocate

O R D E R

Heard the Learned Counsel for the Petitioner and the Learned Government Advocate for the Respondents.

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

3.No Counter affidavit is filed for the Respondents.



4. According to the Petitioner, a suit in O.S.No.46 of 1979 was filed by the Petitioner's mother, for partition of suit properties and a preliminary decree was passed on 28.08.1984 granting 1/3 share in the plaint scheduled properties. Pursuant to the preliminary decree, the legal representatives of the Petitioner's mother viz., Amirthammal Savariamammal projected an application in I.A.No.243 of 1993 for passing of a final decree.

5. It comes to be known that the final decree was passed on 10.09.2015, after contest. It appears that the Petitioner had applied for a copy of the final decree on 16.09.2015. The final decree was engrossed in the stamp paper for its due execution by the Sub Court and the Petitioner was required to deposit the necessary Stamp Papers. In this regard, the Stamp Papers were submitted for engrossing the final decree on the file of the trial Court on 29.10.2015. As a matter of fact, the learned Additional Sub Judge, Tirunelveli, after engrossing the final decree on the Stamp Papers, returned the same to him on 19.07.2016 and on 19.07.2016 itself, the same was delivered to him.

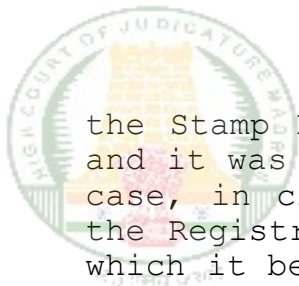
6. The grievance of the Petitioner is that when the certified copy of the final decree was presented before the Second Respondent/Sub Registrar, Vikramasingapuram, on 21.07.2016, the Second Respondent returned the document on 10.08.2016 without registering the same by stating that the document in question was presented for registration beyond the period mentioned under Section 23 of the Registration Act, 1908.

7. As far as the present case is concerned, the trial Court had increased the final decree passed in O.S.No.46 of 1979 on the Stamp Papers and the same was made ready on 19.07.2016. At this juncture, this Court, aptly extracts Section 23 of the Registration Act, 1908, which runs as under:-

"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. A cursory glance of the ingredients of Section 23 of the Registration Act, 1908, latently and patently indicates that 'a copy of a decree or order may be presented within four months from the day on which a decree or order was made, or, where it is appealable, within four months from the day on which it becomes final.' At the risk of repetition, this Court relevantly points out that the final decree in O.S.No.46 of 1979 was engrossed on



the Stamp Papers by the trial Court and was made ready on 19.07.2016 and it was delivered to the Petitioner on the same day. If that be the case, in crystalline terms, the ingredients of Section 23 Proviso of the Registration Act, 1908, beginning with 'a copy of a decree ... on which it becomes final', squarely applies.

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9. This aspect of the matter has been completely lost sight off by the Second Respondent/Sub-Registrar, Vikramasingapuram, Ambasamudram Taluk, Tirunelveli District. As such, this Court, to secure the ends of Justice, interferes with the said order of the Second Respondent/Sub-Registrar, Vikramasingapuram, Ambasamudram Taluk, Tirunelveli District, dated 10.08.2016 and sets aside the same. Consequently, the writ petition succeeds.

10. In the result, the writ petition is allowed. The impugned order, dated 10.08.2016 is set aside by this Court for the reasons assigned in this writ petition. It is abundantly made clear that allowing of writ petition by this Court will not preclude the Petitioner to present the final decree document in O.S.no.46 of 1979 on the file of the Learned Additional Sub Judge, Tirunelveli, before the office of the Second Respondent/Sub-Registrar, Vikramasingapuram, Ambasamudram Taluk, Tirunelveli District and soon after the receipt of the same, the Second Respondent/Sub-Registrar, Vikramasingapuram, Ambasamudram Taluk, Tirunelveli District, is directed to take the same on file and to look into the document of final decree in terms of ingredients of Section 23 of the Registration Act, 1908 and to proceed further in the manner known to Law and in accordance with Law (Ofcourse, after providing necessary opportunity to the Petitioner and others concerned, if any, by adhering to the Principles of Natural Justice, by issuing notice). No costs.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

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To:

1. The District Registrar, Cheranmadevi Registration District, Cheranmadevi, Tirunelveli District.

2. The Sub-Registrar, Vikramasingapuram, Ambasamudram Taluk, Tirunelveli District.

3 The Additional Subordinate Judge, Tirunelveli.

+1CC to Mr.A.V.Arun, Advocate Sr.No.47900

+1CC to Spl.Government Pleader Sr.No.48605

GJM/CK/SAR-III-8.9.16-3p-6c

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