



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.09.2018

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.[MD]No.17955 of 2018

Kamardeen : Petitioner
Vs.

1.The District Registrar,
Madurai North,
Thirumogur Road,
Rajakambeeram,
Othakadai,
Madurai.

2.The Sub Registrar,
Chokkikulam Office,
Thirumogur Road,
Rajakambeeram,
Othakadai,
Madurai.

: Respondents

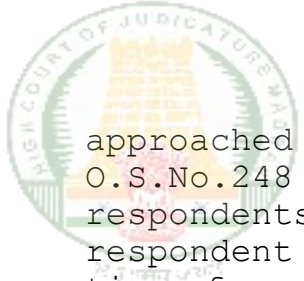
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents 1 and 2 to register the decree made in O.S.No.248 of 2013 dated 29.04.2017 based on the representation dated 04.07.2018 submitted by the petitioner.

For Petitioner : Mr.V.P.Rajan
For Respondents : Mr.M.Murugan
Government Advocate

O R D E R

The petitioner had approached the Civil Court in O.S.No.248 of 2013, seeking to declare the sale deeds dated 06.08.2012 and 13.12.2013, in favour of the defendants in the suit as null and void and for a permanent injunction against them in respect of house property in Town Survey No.1830/3, Door No.34, New Ward No.18, Ahimsapuram 6th Street, Sellur, Madurai. After contest, the trial Court had decreed the suit in favour of the petitioner by declaring the sale deeds as null and void against the defendants by order dated 29.04.2017.

2.However, despite the decree, the defendants in the suit had attempted to encumber the property and therefore, the petitioner



approached the respondents to register the decree made in O.S.No.248 of 2018. In this regard, the petitioner approached the respondents on 04.07.2018. However, it appears that the second respondent refused to register the decree on the ground that the time for registration of the decree under Section 23 of the Registration Act had expired. It is however admitted by the petitioner that there was considerable delay in approaching the respondents seeking registration of the decree. However, according to the Counsel, limitation as provided under Section 23 of the Registration Act is not mandatory and the same is only directory as held by a Hon'ble Judge of this Court.

3.Learned Counsel appearing for the petitioner would submit that in any case, under Section 25 of the Registration Act, the power is vested with the authority to condone the delay by levying fine upto 10 times on the petitioner and therefore, it is not open to the authority to refuse to register the decree on the ground that there was a delay in approaching him by the petitioner.

4.In response to the writ petition, Mr.M.Murugan learned Government Advocate appearing for the respondents filed counter affidavit. According to the counter affidavit, the time limit of four months prescribed under Section 23 of the Registration Act had expired and also the petitioner had not stated the date of finality of the decree and other details in his application and therefore, the authority did not proceed to accept the request of the petitioner.

5.The learned Counsel appearing for the petitioner would rely on a decision passed by a learned Judge of this Court reported in **2017-1-L.W. 721 [Lakshmi Vs. The Sub Registrar, Valapady, Salem District]**.

6.According to the learned Judge of this Court, the time period prescribed under Section 23 of the Registration Act is not mandatory and the same is only directory and the authority has power to condone the delay under Section 25 of the Registration Act.

7.The issue raised in this writ petition is squarely covered by a decision of this Court as stated supra and admittedly there has been a delay in approaching the second respondent, seeking to register the decree, it is permissible for the authorities to register the decree after resorting to Section 25 of the Registration Act by levying fine on the petitioner. Therefore, it is not open to the respondents to deny the registration of the decree validly obtained by the petitioner in his favour. Needless to mention that in the absence of registration of decree, third parties will unnecessarily meddle with the rights of the petitioner and may even seek to encumber the property. Therefore, it is imperative on the part of the respondents to register the decree on the basis of the representation given by the petitioner



on 04.07.2018, by levying appropriate fine on the petitioner in terms of the provisions of the Registration Act.

8. In view of the above decision, the respondents are directed to register the decree granted in O.S.No.248 of 2018, after levying appropriate fine and pass necessary orders in this regard within a period of four [4] weeks from the date of receipt of a copy of this order.

9. The Writ Petition stands disposed of, accordingly. No costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar (CS-IV)

To

1. The District Registrar,
Madurai North,
Thirumogur Road,
Rajakambeeram,
Othakadai, Madurai.

2. The Sub Registrar,
Chokkikulam Office,
Thirumogur Road,
Rajakambeeram,
Othakadai, Madurai.

+1 CC To MR.V.P.RAJAN, Advocate SR. NO. 85390

ORDER MADE IN
W.P. [MD] No. 17955 of 2018
18.09.2018

MR

TR/RP/SAR-IV(27.10.2018) 2P 4C