

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.05.2019

CORAM:

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No. 15118 of 2019

Nandakumar Athappan

96, Mayor Road

Singapore

Rep. By the Power of Attorney

R.Ravichandran

No.503, Sigma Wing

Raheja Towers

No.187, Anna Salai

Chennai - 600 002

...Petitioner

vs.

1.The District Registrar,
102, State Bank Road,
District Collector Office Campus,
Coimbatore 641 018.

2.The Sub-Registrar (DR Cadre),
Sub-Registrar Officer (South),
Singanallur Village,
4/101, Thottangal Veedhi,
ChindamaniPudur Post,
Coimbatore - 641 103.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus granting extension of time by 8 weeks for the petitioner to present the order dated 30.11.2018 passed by this Hon'ble Court in WP.No.31769 of 2018 and order dated 31.12.2015 passed in EP.No.35 of 2011 in CP.No.65 of 2005, dated 31.12.2015 for registration before the 2nd respondent and to direct the 2nd respondent to register the order dated 31.12.2015 passed in EP.No.35 of 2011 in CP.No.65 of 2005.

For Petitioner

: Mr.M.S.Krishnan
Senior Counsel
for Mr.S.Sakthivel

For Respondents : Mr.T.M.Pappaiah,
Additional Government Pleader

O R D E R

This writ petition has been filed for granting extension of time by 8 weeks to the petitioner to present the order dated 30.11.2018 passed by this Hon'ble Court in WP.No.31769 of 2018 and order dated 31.12.2015 passed in EP.No.35 of 2011 in CP.No.65 of 2005 for registration before the 2nd respondent and to direct the 2nd respondent to register the order dated 31.12.2015 passed in E.P.No.35 of 2011 in C.P.No.65 of 2005.

2.Heard Mr.M.S.Krishnan, learned senior counsel for the petitioner and Mr.T.M.Pappaiah, learned Additional Government Pleader for the respondents.

3.Paragraphs 4 to 6 of the common order passed by this Court dated 30.11.2018 made in W.P.No.31761 of 2018 read as follows:

'4. The copy of the judgments sought to be registered was passed on 31.12.2015, which was received by the second respondent and a letter of acknowledgement was sent to the Company Law Board on 16.03.2016, wherein the second respondent has stated that he acknowledged the receipt of the copy of the judgments. Thereafter the second respondent has sent another communication to the Bench Officer on 26.04.2016, requesting him to advise the parties concerned to pay required stamp duty and registration fees in accordance with law and to produce the documents either for registration or for filing. The copy of the Check memo was also issued on 03.05.2016, by the second respondent, calling upon the petitioners to pay the stamp duty and the registration charges for the purpose of registering the document. Admittedly, the stamp duty has not yet been paid and therefore, the second respondent had passed the impugned orders. However, in the impugned orders it is stated that the documents were not presented within four months from the date of Judgment, as per Section 23 of the Registration Act.

5. As from the above facts, admittedly the documents were presented and received by the second respondent within a period of limitation but the stamp duty was not payable. As the documents were received by the Registrar directly from the Company Law Board within a period of limitation the petitioners were directed to pay the stamp duty and the registration charges.

6. In the light of the above facts, the impugned orders of the second respondent dated 01.11.2018 are set aside. The second respondent is directed to register the documents as sought for by the petitioners on payment of the stamp duty and Registration charges, within a period of four weeks from the receipt of the copy of this order.'

4. The above order clearly reveals that the document has been originally presented and a direction was given to register the document within a period of four weeks from the date of receipt of copy of that order. Copy of the order has been delivered on 14.12.2018 to the petitioner. It is the contention of the learned senior counsel that they presented the document immediately. This submission is also fortified by the observation made by this Court.

5. However, it is the contention of the learned Additional Government Pleader that having presented the document, no stamp duty has been paid and hence the document could not be registered. A perusal of the materials placed before this Court further reveals that though a communication has been sent by the second respondent, there is no details as to the amount to be paid by the petitioner.

6. Therefore, I am of the view that since the order has already been passed by this Court, registration of the document is only a formality and the Registrar is bound to register the document on receipt of requisite stamp duty and registration fees.

Accordingly, the writ petition is disposed of by directing the second respondent to intimate the necessary stamp duty to be paid on the document presented by them with registration fees and other charges, if any, to the petitioner within one week from the date of receipt of a copy of this order. On such communication being received, the petitioner shall pay the necessary stamp duty and registration fees within three weeks from the date of receipt of the communication from the second respondent. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gpa/mbi

To

1.The District Registrar,
102, State Bank Road,
District Collector Office Campus,
Coimbatore 641 018.

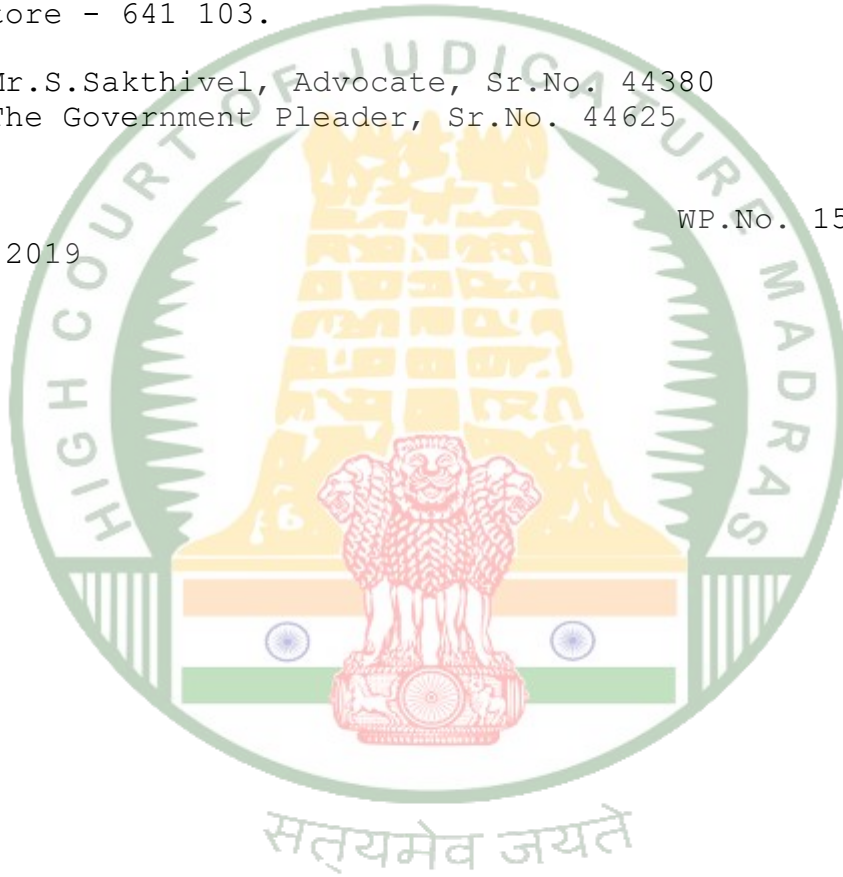
2.The Sub-Registrar (DR Cadre),
Sub-Registrar Officer (South),
Singanallur Village,
4/101, Thottangal Veedhi,
ChindamaniPudur Post,
Coimbatore - 641 103.

+1 cc to Mr.S.Sakthivel, Advocate, Sr.No. 44380

+1 cc to The Government Pleader, Sr.No. 44625

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CSL/18.06.2019



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