



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.11.2019

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Writ Petition No.30405 of 2019
and
W.M.P.No.30397 of 2019

P.Ramamurthy ... Petitioner

Versus

1. The Joint Sub Registrar No.1,
Registration Department,
Tiruppur.

2. S.Gnanasoundari

3. S.Muthulakshmi

4. S.Maheswari

5. S.Thulasimani

6. M.Palanisamy

7. S.Subbathal

8. S.Palanisamy

9. Ponnusamy ... Respondents

PRAYER:-Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the Impugned Refusal Check Slip dated 30.09.2019 on the file of the 1st respondent herein, quash the same and consequently direct the 1st respondent herein to register the Judgment and Decree dated 25.01.2019 passed in O.S.No.251 of 2015 on the file of the Principal Sub Court, Tiruppur within a stipulated period.

For Petitioner .. Mr.K.Govi Ganesan

For R1 .. Mr.M.Thamizharasan,
Government Advocate



O R D E R

The petitioner herein has filed this Writ Petition seeking for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the Impugned Refusal Check Slip dated 30.09.2019 on the file of the 1st respondent herein, quash the same and consequently direct the 1st respondent herein to register the Judgment and Decree dated 25.01.2019 passed in O.S.No.251 of 2015 on the file of the Principal Sub Court, Tiruppur

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the first respondent.

3. The grievance of the petitioner is that the preliminary decree presented for registration before the first respondent was rejected on the ground that the petitioner should present the final decree also and hence refusal check slip issued on 30.09.2019 which is under challenge before this Court.

4. The learned counsel for the petitioner would submit that under Section 18 of the Registration Act, registration of Court decree alone is mentioned and there is no discrimination between preliminary decree and final decree. In this regard, when similar issue came up for consideration before this Court in W.P.No.12330 of 2019, this Court in Kuppayammal Vs.Sub Registrar Joint-I) vide order dated 26.04.2019 has held that once the right of the parties in the preliminary decree is declared by the Court and such decree is not stayed or set aside, the parties are entitled to get the decree registered, if they wish to do so.

5. The relevant portion of the said order passed in W.P.No.12330 of 2019 [Kuppayammal Vs.The Sub Registrar Joint-I, Erode, Erode District] is extracted below:-

"5. I do not think that such contention of the respondent can be sustained in view of the provisions made under Section 18 of the Registration Act, 1908, which deals with the documents of which registration is optional. Clause (cc) of Section 18 of the Registration Act, 1908, only states that a decree or order or award purports or operates to create declare, assign, limit or extinguish any right title or interest may b registered. When such Clause contemplates only decree, the respondent Registering Authority is not entitled to



WEB COPY

say that such decree means only the final decree in a suit for partition. Needless to say that in the preliminary decree, rights and shares of the respective parties are decided and only the metes and bounds of such share have to be worked out in the final decree proceedings. Therefore, once the right of the parties in the preliminary decree is declared by the Court which issued the decree and when such decree is not stayed or set aside, such decree is also entitled to be registered, if the parties wish to do so. "

6. In the light of the above pronouncement of this Court, this Court following the same, directs the first respondent herein to register the preliminary decree presented by the petitioner herein and return the documents after due registration on collection of stamp duty, Registration charge and penalty for delay, if any.

7. Accordingly, this Writ Petition is allowed. No costs. Consequently, connected W.M.P is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

nvi

To

The Joint Sub Registrar No.1,
Registration Department,
Tiruppur.

+1cc to Mr.K.Govi Ganesan, Advocate, S.R.No. 94298
+1cc to the Government Pleader, S.R.No. 94641

Writ Petition No.30405 of 2019 and
W.M.P.No.30397 of 2019

GP(CO)
GN(20/12/2019)