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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.11.2019

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Writ Petition No.33286 of 2019
and W.M.P.No.33752 of 2019

1.K.Saroja

2.R.Kokila

.. Petitioners

/versus/

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 027.

2.The Sub-Registrar,
(In the cadre of District Registrar)
Kodambakkam Sub-Registrar Office,
Central Chennai, Chennai-26

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent to register the Judgment and decree made in C.S.No.745 of 2017 dated 22.02.2019 in pending document No.TP/66908281/19 and consequently direct the 2nd respondent to refund the amount of a sum Rs.1,25,500/- (One Lakh Twenty Five Thousand Five Hundred) paid towards Stamp duty on 31.07.2019 by forthwith.

For petitioner : Mr.Ma.P.Thangavel

For Respondents : Mr.T.M.Pappiah, SGP

O R D E R

By consent, the main writ petition is taken up for final disposal at the admission stage itself.

2. The petitioners herein aggrieved by the refusal to register the Court decree presented by him have come before this Court seeking Mandamus to direct the 2nd respondent to register



the judgment and decree made in C.S.No745 of 2017 dated 22.02.2019.

3. The brief facts involved in this case is that the petitioners filed suit for declaration and partition in C.S.No.745 of 2017 before the High Court. In this suit ex parte preliminary decree was passed on 22.02.2019. The decree copy was made ready on 15.04.2019. Immediately on receipt of the decree copy, the petitioners have approached the 2nd respondent and presented the decree copy for registration as per Section 23 of the Indian Registration Act. The said online application for registration was made on 09.07.2019, a sum of Rs.570/- towards registration charge and Rs.1,25,500/- towards Stamp duty were remitted on 31.07.2019. The document was returned by the 2nd respondent vide proceedings dated 26.09.2019 stating that the time prescribed for presenting the documents is 4 months from the date of its execution. Since the documents (Court decree) presented by the petitioners has crossed four months limit from the date of its execution, the same cannot be registered. The said communication is impugned in this writ petition.

4. The perusal of the impugned proceedings of the 2nd respondent reveals that the document presented by the petitioner has been considered in the light of the Sections 23 and 25 of the Indian Registration Act and the 2nd respondent has arrived at a conclusion that the documents presented is beyond four months time prescribed under Section 23 and also beyond further time period of four months extendable under Section 25 of the Indian Registration Act.

5. From the records, it appears that though this Court has pronounced the preliminary decree on 22.02.2019, the copy of the decree has been made ready only on 15.04.2019, whereas the documents has been presented for registration through online on 09.07.2019. Stamp duty has been paid on 31.07.2019. Hence the presentation of the document is well before the time prescribed under Section 23 the Indian Registration Act. Therefore, order of the 2nd respondent dated 26.09.2019 prima facie not inconsonance with the Section 23. Hence liable to be quashed.

6. Accordingly, the writ petition is disposed of with a direction to the 2nd respondent to verify whether the High Court has forwarded the decree copy and ensure from the defendants whether the ex parte decree dated 22.02.2019 have reached finality and whether any final decree passed in that case. Thereafter register the document presented by the petitioners on



collecting the requisite stamp duty and registration fee as per law if necessary. Consequently, the connected miscellaneous petition is closed. No costs.

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s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

rpl

To

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 027.

2.The Sub-Registrar,
(In the cadre of District Registrar)
Kodambakkam Sub-Registrar Office,
Central Chennai, Chennai-26

+1 CC to Ma.Pa. Thangavel, Advocate sr 99310.

+1 CC to Govt. Pleader sr 100440.

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and W.M.P.No.33752 of 2019

VGII (CO)
SP(02/01/2020)