



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **15.11.2019**

CORAM:

THE HONOURABLE **MR.JUSTICE M.SUNDAR**

W.P. (MD)No.24146 of 2019

M.Jameela Rifanaa

... Petitioner

/Vs./

1.The District Registrar (Administration),
/ Assistant Inspector General of Registration,
Tirunelveli District, Tirunelveli.

2.The Sub-Registrar,
Pettai, Tirunelveli.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Board,
Trivandrum Road,
Palayamkottai, Tirunelveli.

4.K.Raja Mohammed

5.Sulaiman

... Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for records relating to the impugned order of the 1st Respondent in Pa.Mu.No.4218/AA1/2019 dated 16-10-2019 and the impugned order of the 2nd Respondent in P4/2015 dated 21-09-2017 and quash both and consequently direct the 2nd Respondent to make entry of completion of registration and issue the Registration certificate in respect of Document No.P4/2015 dated 12-01-2015.

For Petitioner	: Mr.H.Arumugam for Mr.P.P.Alwin Balan
For R-1 & R-2	: Mr.V.Anand Government Advocate
For R-3	: Mr.V.R.Shanmuganathan Special Government Pleader
For R-4 & R-5	: Mr.N.Vignesh

ORDER

Mr.H.Arumugam, learned counsel representing counsel on record for writ petitioner, Mr.V.Anand, learned Government Advocate who accepts notice on behalf of respondents 1 and 2, Mr.V.R.Shamuganathan, learned Special Government Pleader who accepts notice on behalf of third respondent and Mr.N.Vignesh, learned counsel, who accepts notice on behalf of respondents 4 and 5 (private respondents) are before this Court.



2. With consent of all the aforesaid learned counsel, main writ petition is taken up, heard out and is being disposed of.

3. Nucleus of this writ petition is an 'order dated 16.10.2019 bearing reference Pa.Mu.No.4218/AA1/2019' passed by the first respondent (hereinafter referred to as 'impugned order' for the sake of brevity) rejecting writ petitioner's statutory appeal filed under Section 72 of Registration Act, 1908 (hereinafter referred to as 'said Act' for the sake of brevity) on the ground that it has not been filed within 30 days from the date of the order under challenge in appeal ie., order dated 21.09.2017 made by the second respondent (hereinafter referred to as 'SR order' for brevity). To be noted, 'SR' stands for 'Sub-Registrar'. SR order is an order refusing registration of a document.

4. It may not be necessary to dilate further on facts, as this writ petition turns on a very narrow compass. Suffice to say that SR order came to be passed on the pain of contempt vide Contempt Petition No.337 of 2018 which came to be disposed of on 12.04.2019 by Hon'ble Division Bench of this Court. Relevant paragraphs are paragraph Nos.2 to 4 of the order of the Hon'ble Division Bench and the same read as follows:

'2.In the affidavit filed by the contemnor, the following averments have been made:

6.I humbly submit that as the Hindu Religious and Charitable Endowment Department is vehemently opposing the registration of the sale deed, I have no authority except to refuse registration under Section 22A of the Registration Act, 1908. Accordingly, I have passed order Under No.2/2017 dated 21.09.2017 refusing to register the document under Section 22A.

3.In such view of the matter, we do not find any wilful disobedience of the order passed.

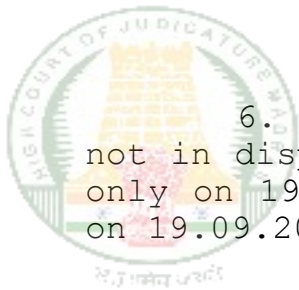
4.Learned counsel appearing for the petitioned submitted that the aforesaid order has not been communicated. Though we do not want to go into the said issue, we deem it appropriate to direct the contemnor to serve yet another copy of the order dated 21.09.2017 to the petitioner within a period of four weeks from the date of receipt of a copy of this order.'

5. Pursuant to the aforementioned order of the Hon'ble Division Bench of this Court, there is no disputation or

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6. The post script in the aforesaid scanned reproduction, is not in dispute and therefore SR order was served on writ petitioner only on 19.08.2019. Therefore, 30 days from the said date elapses on 19.09.2019.

7. This takes us to the impugned order. A perusal of the impugned order made by the first respondent reveals that statutory appeal under Section 72 of said Act has been filed by writ petitioner on 16.09.2019 which is well within 30 days limitation period. To be noted, that statutory appeal was filed on 16.09.2019 is also not in dispute before this Court.

8. Therefore, it follows as an inevitable and indisputable sequitur that the impugned order rejecting statutory appeal of the writ petitioner on the sole ground that it has been filed beyond 30 days prescribed period under Section 72 of said Act (without examining the appeal on merits) deserves to be set aside.

9. Impugned order of the 1st Respondent in Pa.Mu.No.4218/AA1/2019 dated 16-10-2019 is set aside and the first respondent is directed to take up aforementioned statutory appeal of the writ petitioner filed on 16.09.2019 (statutory appeal under Section 72 of said Act), hear the same and pass orders on merits in accordance with law, after putting the writ petitioner, respondents 3 to 5 and other interested parties if any on notice, after giving them reasonable opportunity, as expeditiously as possible and in any event within three (3) months from the date of receipt of a copy of this order.

10. Order passed in statutory appeal by the first respondent shall be communicated under due acknowledgement to the writ petitioner, respondents 3 to 5 and other interested parties if any within seven (7) working days from the date of order.

11. Writ Petition is allowed with above directives. No costs.

Sd/-

Assistant Registrar (CS-III)

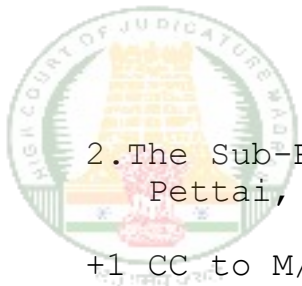
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Sub Assistant Registrar(CS)

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To

1.The District Registrar (Administration),
/ Assistant Inspector General of Registration,
Tirunelveli District, Tirunelveli.

<https://hcservices.hcscourts.gov.in/hcservices/>



2.The Sub-Registrar,
Pettai, Tirunelveli.

+1 CC to M/s.GP (SR-99037[F] dated 18/11/2019)

+1 CC to Mr.P.P.ALWIN BALAN, Advocate (SR-99065[F]dated
18/11/2019)

Order made in
W.P. (MD) No.24146 of 2019
15.11.2019

VB(04.12.2019) 5P 5C