

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.6012 of 2020
and
W.M.P Nos.7049 & 7051 of 2020

S.Syed Yusub

Petitioner

vs.

The Sub Registrar,
Uthangarai,
Krishnagiri District.

Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records with respect of the impugned proceedings passed by the respondent in the name of check slip in RFL/Uthangarai/3/2019 dated 26.11.2019 and quash the same and consequently directing the respondent herein to register the final decree proceedings dated 12.11.2018 passed in O.S.No.126 of 2015 on the file of the Sub Court, Uthangarai.

For Petitioner : Mr.J.Pradeep

For Respondent : Mr.T.M.Pappiah
Special Government Pleader

सत्यमेव जयते

O R D E R

By consent of both sides, this writ petition is taken up for final disposal.

2.This writ petition has been filed challenging the refusal of the respondent to register the decree that was passed in favour of the petitioner on 12.11.2018 in O.S.No.126 of 2015 by the Sub Court, Uthangarai.

3.The case of the petitioner is that, he became the owner of the property by virtue of registered sale deed dated 30.03.2012.

The petitioner found that there is a wrong mentioning of the survey number in the sale deed and therefore, he approached the sons of the vendor. Since they were not inclined to execute a rectification, the petitioner filed a suit in O.S.No.126 of 2015 seeking for relief of declaration of title, permanent injunction and mandatory injunction. The suit was decreed as prayed for by judgment and decree dated 12.11.2018.

4.The petitioner wanted to register this decree since his title was declared in the decree. Insofar as the other reliefs are concerned, the petitioner wanted to independently execute the same by filing an execution petition. When the petitioner presented the decree for registration, the respondent had refused to register the decree based upon the relief of mandatory injunction since it provided for the defendants to first execute the rectification deed within a period of two months and since they did not do it, the respondent thought that the decree itself cannot be registered. Aggrieved by the same, the present writ petition has been filed before this Court seeking for appropriate directions.

5.The learned counsel for the petitioner submitted that the petitioner wants the decree to be registered mainly on the ground that his title has been declared to the property and he wants it to be reflected in the encumbrance certificate. The learned counsel submitted that, even though Section 23 of the Registration Act provides for a limitation, the same is only directory in nature and it is not mandatory. To substantiate his submission, the learned counsel relied upon the judgment of this Court in K.Krishnan vs. Inspector General of Registration and Another reported in (2019) 6 MLJ 523. The learned counsel also relied upon the judgment of this Court in Lakshmi vs. The Sub Registrar, Valapady, Salem District reported in 2017 1 LW 721.

6.The learned Special Government Pleader appearing on behalf of the respondent submitted that the respondent had refused the registration only after noticing the relief of mandatory injunction. The learned counsel submitted that in view of the specific stand taken up by the learned counsel for the petitioner, the petitioner can be directed to present the decree again for registration and the same will be taken on file by the respondent and the same will be registered in accordance with law.

7.In the considered view of this Court, the petitioner wants the decree to be registered since his title has been declared by a competent civil Court with regard to the suit property. As rightly contended by the learned counsel for the petitioner, the limitation provided under Section 23 of the Registration Act is only directory in nature and it cannot be put against the

petitioner who wants to register the Court decree. The judgment cited by the learned counsel for the petitioner will squarely apply to the facts of the present case.

8. In view of the above, the petitioner is directed to represent the decree before the respondent and the respondent on receipt of the document shall take it on file and register the same in accordance with law.

9. This writ petition is disposed of with the above directions. Consequently, connected miscellaneous petitions are closed. No Costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssr

To

1. The Sub Registrar,
Uthangarai,
Krishnagiri District.

2. The Sub Court,
Uthangarai.

+1cc to Mr. J. Pradeep, Advocate, S.R.No.20900

+1cc to the Government Pleader, S.R.No.22152

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PP (CO)
RN (26/06/2020)