

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2020

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

WP.No.13875 of 2020

R. Ganesan

...Petitioner

Vs.

The Sub-Registrar,
Nellikuppam, Panruti Taluk,
Cuddalore District.

...Respondent

Prayer: Writ Petition filed under Section 226 of Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records and quash the impugned communication/endorsement/return dated 13.3.2020 by the respondent in the document/certified copy of the decree dated 15.07.2019 in O.S.No.354 of 2017 on the file of the 1st Additional Subordinate Judge, Cuddalore presented for registration and consequently directing the respondent to register the certified copy of decree dated 15.07.2019 in O.S.No.354 of 2017 on the file of the I Addl. Subordinate Judge, Cuddalore.

For Petitioner : Mr.R.Gururaj

For Respondents: Mr.T.M. Pappiah,
Spl. Govt. Pleader

O R D E R

This Writ Petition has been filed challenging the impugned refusal slip issued by the respondent dated 13.3.2020, wherein, the respondent refused to register the decree that was passed in O.S.No.354 of 2017 on the ground that it is an exparte judgment and decree.

2. The case of the petitioner is that he borrowed a sum of Rs.1,50,000/- from one Chandrasekaran and he also executed a simple mortgage in his favour on 5.8.2010. This Mortgage Deed was registered on the file of the respondent on 5.8.2010. Subsequently, the petitioner filed a suit in O.S.No.354 of 2017 for redemption of mortgage on the file of the I Addl. Sub Court, Cuddalore.

3. The above suit came to be decreed on 15.7.2019. In this suit, the defendant was set exparte and an exparte decree came to be passed. A reading of the decree passed by the trial Court shows that the petitioner has been directed to deposit a sum of Rs.2,74,100/- which is the amount due under the mortgage.

4. This amount was deposited by the petitioner before the trial court on 14.8.2019. This deposit was made within the time stipulated by the trial court.

5. The grievance of the petitioner is that inspite of redeeming the mortgage, the defendant never came forward to cancel the mortgage. Therefore, the petitioner wanted to register the decree that was passed in O.S.No.354 of 2017. The same was not accepted by the respondent on the ground that it was an exparte judgment and decree. Aggrieved by the same, the present writ petition has been filed before this Court.

6. Heard Mr.R.Gururaj, learned counsel appearing for the petitioner and Mr.T.M. Pappiah, learned Special Govt. Pleader appearing for the respondent.

7. It is clear from the records that the petitioner has complied with the decree passed by the court below and the same is evident from the lodgment schedule that has been filed before this Court, which shows that the petitioner has deposited a sum of Rs.2,74,100/- within time. Inspite of complying with the decree, the defendant was not coming forward to cancel the mortgage. Therefore, the petitioner was left with no other alternative, except to submit the decree for registration before the Registrar.

8. In the considered view of this Court, the respondent ought not to have rejected the registration of the decree only on the ground that it was an exparte decree. An exparte decree is as good as a contested decree and the law on this issue has been well settled by the Honourable Supreme Court in the case of Rajinder Kumar Vs. Shri Kuldeep Singh and others reported in 2014 2MLJ page 496. The respondent before accepting the decree for registration, at the best, should have ensured that the petitioner had satisfied the decree. Sufficient materials have been placed before this Court to establish that the petitioner has satisfied the decree.

9. In view of the above discussion, the impugned refusal slip issued by the respondent dated 13.3.2020 is hereby quashed. There shall be a direction to the respondent to accept the decree passed in O.S.No.354 of 2015 and register the same, if it is, otherwise, in order, subject to the condition that the petitioner pays the necessary stamp duty and registration fees.

10. This Writ Petition is allowed with the above directions.
No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
The Sub-Registrar,
Nellikuppam, Panruti Taluk,
Cuddalore District.

+1cc to the Government Pleader, S.R.No.34785

WP.No.13875 of 2020

NMI (CO)
RV(20/11/2020)



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