



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2020

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD)No.1349 of 2020

S.Kalyanakumar

: Petitioner

vs.

1.The Inspector General of Registration,
No.100, Santhome High Road,
Foreshore Estate, Pattinampakkam,
Chennai-600 028.

2.The Joint Sub-Registrar,
Madurai (South),
Mahal, Palace Road,
Madurai - 625 001.

: Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the second respondent to register the final decree of partition in I.A.No.586 of 2015 in O.S.No.166 of 2013, dated 30.08.2017 on the file of the V Additional District Court, Madurai in respect of half share in Door No.28, Krishnarayar Teppakulam Street, Madurai -1 on payment of necessary charges by considering the representation of the petitioner, dated 26.12.2019.

For Petitioner
For Respondents

:Mr.S.Manohar
:Mr.V.Anand
Government Advocate

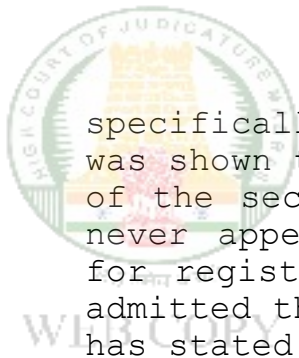
O R D E R

This Writ Petition is filed for issuing a Writ of Mandamus to direct the second respondent to register the final decree of partition in I.A.No.586 of 2015 in O.S.No.166 of 2013, dated 30.08.2017 on the file of the V Additional District Court, Madurai.

2.The petitioner states that he was allotted half share in a property under final decree passed by the V Additional District Court, Madurai in O.S.No.166 of 2013. The petitioner, without presenting the document for registration in person, appears to have submitted a representation to the second respondent to register the decree by stating that he is prepared to pay necessary registration charges. The petitioner produced before this Court, the two representations submitted by him on 26.12.2019 and 30.12.2019. Stating that the second respondent has not given any reply, the petitioner has approached this Court.

3.The second respondent has filed a counter affidavit

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specifically denying the case of the petitioner that the document was shown to the second respondent for registration. It is the case of the second respondent that the petitioner or his representative never appear before the second respondent under any circumstances for registration of the decree. Though the second respondent has admitted the submission of the representations by the petitioner, he has stated as follows in the counter affidavit:

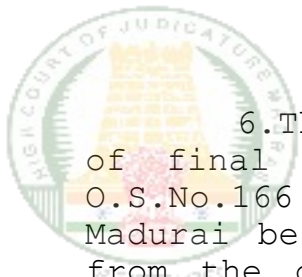
"It is submitted that in reply to the aforesaid representation of the petitioner, the second respondent stated in his letter No.290/2019, dated 31.12.2019 that every document including a copy of a decree should be presented for registration before the registering authority in person as per the procedures laid down in the section 32 of the Registration Act 1908 and Rule 21 of the said Act. It is also stated that the document if any finding for registration would be decided to admit for registration only on the scrutiny of the documents with the procedures laid down in the registration act and rules and it is further directed that the document should be presented along with the sketch, E.R.C.2, E.R.C.3 and plan as the document has been classified as partition in the decree.

It is submitted that the aforesaid final decree was made on 30.08.2017 in I.A.No.586 of 2015 in O.S.No.166 of 2013 on the file of the V Additional District Court, Madurai.

It is submitted that as per the provision of Section 23 of the Registration Act 1908, a copy of a decree may be presented within four months from the date on which the decree or order was made or where it is appealable within four months from the day on which it becomes final."

4.In the light of the stand taken by the second respondent and the fact that the petitioner has never submitted the final decree for registration, this Court is of the view that the Writ Petition can be disposed of on the basis of the admitted facts. Though it is stated by the second respondent that as per Section 23 of Registration Act 1908, a copy of decree or order should be presented for registration within four months from the date of the decree, this Court has consistently taken a view that the registration of an order or decree of the Court can be presented for registration, irrespective of the date of decree and that Section 23 of the Registration Act has no application for registration of a decree or order of Court.

5.Considering the facts and circumstances of the case and the settled principles, this Court is inclined to disposed of the Writ Petition with the following directions:



6.The petitioner is directed to present the certified copy of final decree made on 30.08.2017 in I.A.No.586 of 2015 in O.S.No.166 of 2013 on the file of the V Additional District Court, Madurai before the second respondent within a period of two weeks from the date of receipt of a copy of this order. The second respondent shall accept the document for registration without insisting the period of limitation as contemplated under Section 23 of the Registration Act 1908 or pass appropriate orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. It is the duty of second respondent to follow the procedure strictly in accordance with law, while considering the document for registration.

7.With the above directions, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

cmr

To

- 1.The Inspector General of Registration,
No.100, Santhome High Road,
Foreshore Estate, Pattinampakkam,
Chennai-600 028.
- 2.The Joint Sub-Registrar,
Madurai (South),Mahal, Palace Road,
Madurai - 625 001.
3. The V Additional District Judge, Madurai.

+1 CC to M/s.SPL.GP (SR-6114[F] dated 13/02/2020)

+1 CC to M/s.S.MANOHAR, Advocate (SR-6088[F] dated 13/02/2020)

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