



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2020

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE **S.VAIDYANATHAN**

W.P. (MD) No.17040 of 2020

P.M.H.Syed Mohamed

... Petitioner

-Vs-

The Joint Sub Registrar No.2,
Tirunelveli,
Tirunelveli Town.

... Respondent

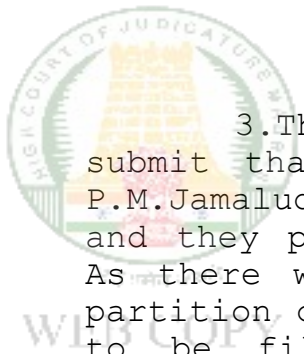
Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the respondent in Refusal Check Slip No.RFL/2 No. Joint Sub Registrar Tirunelveli/10/2020, dated 10.11.2020 and quash the same as illegal and consequently direct the respondent to register the settlement memo (compromise decree/award) in Lok Adalat Case No.466 of 2015, dated 22.12.2015 recorded in O.S.No.43 of 2015 on the file of III Additional District Judge, Tirunelveli within the stipulated time.

For Petitioner : Mr.M.E.Ilango
For Respondent : Mr.K.Sathiya Singh,
Additional Government Pleader.

ORDER

The petitioner has come forward with this Writ of Certiorarified Mandamus challenging the impugned order passed by the respondent in Refusal Check Slip No.RFL/2 No. Joint Sub Registrar Tirunelveli/10/2020, dated 10.11.2020 and consequential direction to the respondent to register the settlement memo (compromise decree/award) in Lok Adalat Case No.466 of 2015, dated 22.12.2015 recorded in O.S.No.43 of 2015 on the file of III Additional District Judge, Tirunelveli within the stipulated time.

2.Heard the learned Counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondent.

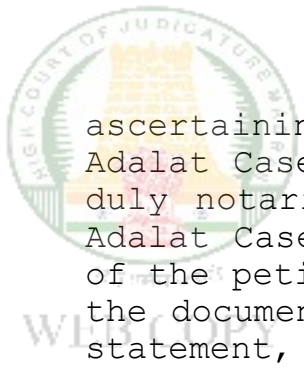


3.The learned Counsel appearing for the petitioner would submit that the petitioner's father P.M.Hydrous and his brother P.M.Jamaludin are two legal heirs of the petitioner's grandfather and they passed away long back leaving behind various properties. As there was difference of opinion among the legal heirs in the partition of properties, a partition suit in O.S.No.43 of 2015 came to be filed on the file of III Additional District Court, Tirunelveli. After filing the suit, on the advise of elders and family members, an amicable settlement was reached between the petitioner and the co-sharers and they have entered into a settlement. As per the terms of the settlement, it was decided to divide the properties among themselves as mentioned in the said settlement. The said settlement was referred to the Lok Adalat and the same was taken in L.A. No.466 of 2015 and an award was passed on 22.12.2015 and based on the award, the suit in O.S.No.43 of 2015 was disposed of by the III Additional District Judge, Tirunelveli on 12.01.2016. The petitioner on 09.11.2020 had approached the respondent to register the said award dated 22.12.2015 and the final decree. However, the same was rejected by the respondent on the ground that the document has been presented belatedly. Challenging the same, the petitioner has come forward with the present Writ Petition.

4.The learned Counsel appearing for the petitioner would submit that the impugned order has been passed by the respondent without considering the facts of the case in proper perspective. He further submit that the issue is no longer *res integra*. In support of his contention, the learned Counsel appearing for the petitioner would rely upon a decision of this Hon'ble Division Bench of this Court the case of **S.Sarvothaman v. Sub Registrar, Oulgaret, Pondicherry - 605 010** reported in **2019 (2) CWC 314** wherein it has been held that the time limit stipulated under Section 23 of the Registration Act, 1908 will have no application to a Court Decree and directed the respondent therein to register the decree, which was presented for registration after a period of 48 years, within a period of one week from the date or receipt of a copy of the order.

5.The learned Additional Government Pleader appearing for the respondent fairly conceded that the issue is no longer *res integra* and quietus has been given to the issue vide above decision of the Hon'ble Division Bench of this Court.

6.Taking into consideration the decision of the Hon'ble Division Bench, this Court is of the considered view that impugned order passed by the respondent dated 10.11.2020 is liable to be quashed and accordingly the same is quashed. The Writ Petition is allowed with a direction to the respondent to register the Lok Adalat Award and the Final Decree of the Civil Court with regard to the petitioner's property in accordance with law within a period of 60 days from the date of receipt of a copy of this order, after



ascertaining whether any appeal is pending against the order in Lok Adalat Case No.466 of 2015. The respondent shall take an affidavit duly notarized that no matter is pending against the order in Lok Adalat Case No.466 of 2015, wherein thumb impression and photograph of the petitioner shall also be placed, which will also form part of the documents, so that if there is any incorrect statement or false statement, the Court can take appropriate action against the petitioner. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

SRM

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Joint Sub Registrar No.2,
Tirunelveli,
Tirunelveli Town.

+1 CC to the SPL GP (SR-24841[F] dated 10/12/2020)

+1 CC to Mr.M.E.ILANGO, Advocate (SR-24985[F] dated 10/12/2020)

W.P. (MD) No.17040 of 2020
09.12.2020

TP (CO)

CS (22.12.2020) 3P 4C