

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 28.04.2021
CORAM :
THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN
Writ Petition No.10258 of 2021

M/s.Sun TV Network Ltd.,
rep. By its Authorised Signatory,
Mr.M.Jyothibasu

... Petitioner

-Vs-

- 1 Joint-II Sub-Registrar (DR Cadre)
Joint-II Sub-Registrar Office,
Thousands Lights,
Chennai Central, Thousand Lights,
Chennai-18.
- 2 The Assistant Registrar (O.S.II)
High Court, Chennai-600 104. ... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, quash the Lr. No.73 of 2021 dated 24.03.2021 issued by the 1st respondent now pending adjudicating before the 1st respondent and consequently direct the 1st respondent to register the compromise memo dated 16.11.2018 on presentation of the same for registration by the 2nd respondent.

For Petitioner : Mr.Ravindran for
Ms.M.Sneha

For Respondents : Mr.T.M.Pappiah,
Special Government Pleader for R1

सत्यमेव जयते
Mr.Karthik Ranganathan for R2

ORDER

(This case has been heard through video conference)

This Writ Petition has been filed challenging the order passed by the 1st respondent refusing to register a compromise memo dated 16.11.2018.

2. The grievance of the petitioner is that, there was a dispute between the petitioner and one Sri Thenandal Films, represented by its proprietor, Mr.Narayanan Ramasamy, in respect of distribution rights of a Tamil movie called 'Sarkar'. Earlier, an application was filed by the petitioner under Sec.9

of the Arbitration Act, before this court in Appln. Nos.8786 and 8787 of 2018. Pending the application, the parties have entered into a compromise in respect of some issues on 16.11.2018, and a compromise memo was filed, which was accepted by this Court, by an order dated 23.11.2018. In respect of the remaining dispute, this Court directed the parties to seek for arbitration. Thereafter, since the other party has not come forward to register the compromise decree, the petitioner approached this Court once again. This Court by an order dated 10.02.2020, had modified the earlier order directing the respondents therein to register the document within a period of three weeks, otherwise, the document should be registered by the Assistant Registrar of this Court/the 2nd respondent herein.

3. Even thereafter, the compromise decree was not registered. Hence, the petitioner has filed execution petition in E.P.No.3 of 2021 and the same was also allowed. Thereafter, one of the sister of respondents therein one Umayal @ Uma came forward with applications, in Appln.Nos.1121 to 1123 of 2020 to set aside the order dated 10.02.2020 passed in Appln.Nos.8786 and 8787 of 2020, on the ground that, the applicant's signature has been forged. Considering the above said applications, this Court by an order dated 19.03.2021, directed that, the above said applicant has only 1/3rd share in the schedule mentioned property in the compromise memo, the petitioner herein is permitted to register the compromise decree in respect of the remaining 2/3rd share alone and not in respect remaining 1/3rd share. The relevant portion of the order reads as follows :-

"12. Considering the fact that the 5th respondent, who owns 1/3rd share has challenged the signature in the joint memo of compromise it is made clear that the registration shall only be with reference to the balance 2/3rd share and shall not be with reference to the applicant's (M.Umaiya @ Uma) share. The learned senior counsel also assures that the original joint memo of compromise shall be taken return from the Sub-Registrar's office within a day or two. Therefore, the original joint memorandum of compromise shall be handed over to the Advocate Commissioner by 26.03.2021. The original agreement of guarantee dated 09.11.2018 is also in the possession of the 1st respondent/applicant. This will also be handed over on 26.03.2021 to the learned Advocate Commissioner.

13. The applicant is also directed to give a copy of a public documents of contemporaneous date i.e. November 2018 containing the applicant's signature to the Advocate Commissioner by 26.03.2021.

14. The Advocate Commissioner on receipt of these documents shall thereafter arrange to receive the

original affidavit filed in A.No.1121 to 1123 of 2021 from the Registry and take all the documents to the Forensic Sciences Department, Mylapore, Chennai for comparison of signatures. He shall file his report by 21.04.2021."

Pursuant to the order passed by this Court, the document was produced before the 1st respondent, wherein the 1st respondent had passed the impugned order stating that, the document was executed on 16.11.2018, and the document was produced for Registration beyond the period of limitation prescribed under Sec.23 of Registration Act. Hence, the document cannot be registered. That apart, the 1st respondent has also pointed out some other discrepancies in the document, which are to be rectified. Now, challenging the above said order, the present Writ Petition has been filed.

4. Mr. J.Ravindran, learned counsel appearing for petitioner would submit that, though the document was executed on 16.11.2018, since the dispute is pending between the parties before this Court, the document could not be presented for registration, only in pursuant to the orders passed by this Court, now the document has been produced before the Registrar for registration, and the delay cannot put against the petitioner. So far as other discrepancies pointed out by the 1st respondent are concerned, the petitioner is always ready and willing to comply with the same.

5. Mr. T.M.Pappiah, learned Special Government Pleader appearing for 1st respondent would submit that, under Sec.23 and 25 of Registration Act, the maximum time limit permitted for presenting the document for registration is only eight months. Admittedly, the document was executed on 16.11.2018 and the document was produced only recently. Hence, the 1st respondent has no power to register the document. That apart, for the purpose of calculating stamp duty, the schedule mentioned in compromise memo should contain all the particulars of the property, but the present document does not contain any such description enabling the 1st respondent Sub-Registrar to calculate the stamp duty. Hence, necessary affidavit should be filed giving all the particulars and description of the property. That apart, the petitioner should necessarily comply with other discrepancies pointed out by the 1st respondent.

6. I have considered rival submissions and perused the records carefully.

7. It is contended by the petitioner that, though the document was executed on 16.11.2018, as a dispute is pending between the parties before this court, the document could not be

presented for registration in time, and this Court had passed various orders for registering the said document. Finally on 19.03.2021, this Court directed the petitioner to register 2/3rd share mentioned in the compromise memo. Pursuant to the order passed by this Court, the petitioner has presented the document for registration. In these circumstances, the provisions of Sec.23 and 25 of the Act will not come into operation, and the 1st respondent cannot refuse to register the document on the ground of delay. So far as other discrepancies pointed out by the 1st respondent are concerned, the learned counsel appearing for petitioner would submit that the petitioner will comply with the other discrepancies and the petitioner is ready and willing to file an affidavit giving all the particulars and the description of properties mentioned in the schedule.

8. This Court find much force in the submissions of the petitioner. Admittedly, a compromise was entered into between the parties in a dispute pending between them before this court, which was challenged by one of the alleged co-sharer of the properties. This Court by an order dated 19.03.2021, permitted the petitioner to register the compromise memo in respect of 2/3rd share. Immediately, the document was placed before the 1st respondent for registration. In these circumstances, the petitioner cannot be made responsible for the delay. As the document was produced for registration pursuant to the order passed by this Court, the 1st respondent cannot refuse to register on the ground of delay in producing the document for registration.

9. In the above circumstances, the impugned order passed by the 1st respondent in so far as clause (1) is set aside and the 1st respondent is directed to register the document without considering the delay in producing the document. So far as other discrepancies pointed out by the 1st respondent are concerned, the petitioner is directed to comply with the same and the petitioner is directed to file necessary affidavit giving description of properties mentioned in the compromise memo before the 1st respondent.

10. Mr.J.Ravindran, learned counsel appearing for petitioner would submit that, as per the order passed by this court, the Advocate Commissioner has presented the document to the 1st respondent, which was returned. Thereafter, the Advocate Commissioner has produced the document before the forensic department for verification of signature and the forensic department has also verified the same and filed a report in a sealed cover along with the document before the 2nd respondent, now, the document is in custody of 2nd respondent. Hence, the 2nd respondent may be directed to hand over the document to the Advocate Commissioner enabling him to submit it before the 1st

respondent.

11. Considering those circumstances, as the document is available with the 2nd respondent/Assistant Registrar, High Court, the 2nd respondent is directed to hand over the document to the Advocate Commissioner Mr.Arun Anbumani, enabling him to present the same before the 1st respondent, within a period of one week from the date of receipt of copy of this order. Thereafter, the Advocate Commissioner is directed to present the same before the 1st respondent for registration within a period of two weeks. After receipt of the document, the 1st respondent is directed to register the document within a period of two weeks. The petitioner is directed to comply with other discrepancies pointed out by the 1st respondent within that period. Accordingly, this Writ Petition stands allowed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rpp

To

1 Joint-II Sub-Registrar (DR Cadre)
Joint-II Sub-Registrar Office,
Thousands Lights,
Chennai Central, Thousand Lights,
Chennai-18.

2 The Assistant Registrar (O.S.II)
High Court, Chennai-600 104.

+1 cc to M/s.M.Sneha, Advocate, SR.No.25880
+1 cc to Government pleader, SR.NO.26355

W.P.No.10258 of 2021

LN (CO)
NS (13/05/2021)

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