



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2021

CORAM

WEB COPY

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.13991 of 2021
and
W.M.P.No.14863 of 2021

S.Jayanthi Rani

...Petitioner

Vs.

1. Sub - Registrar,
Registrar Office,
Thirupattur, Vellore District.

2. District Registrar,
Thirupattur, Vellore District,

3. Inspector General of Registration,
Santhome,
Chennai - 600 028.

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in Na.Ka.No.74/2021 dated 19.02.2021 on the file of the 1st respondent herein and quash the same, and direct the 1st respondent to register the instruments namely Judgment and Decree dated 17.09.2019 on the file of the Additional District Munsif Court, Tirupattur that may be re-submitted by the petitioner before the 1st respondent in Document No.P/8/2021 dated 19.02.2021.

For Petitioner : Mr.S.Sadasharam

For respondents : Mr.K.M.D.Muhilan
Government Advocate

ORDER

This Writ Petition has been filed to call for the records in Na.Ka.No.74/2021 dated 19.02.2021 on the file of the 1st respondent herein and quash the same, and direct the 1st respondent to register the instruments namely Judgment and Decree dated 17.09.2019 on the file of the Additional District Munsif Court, Tirupattur that may be re-submitted by the petitioner before the 1st respondent in Document No.P/8/2021 dated 19.02.2021.



2. The case of the petitioner is that the petitioner's father Sundarajulu Naidu (died) owned immovable properties at Gummidikampatti Village and Thokkiyam Village in Thirupattur Taluk, Vellore District in Survey Nos.134/11, 134/12, 134/13 and 134/14 at Gummidikampatti Village and Survey Nos. 235/1A, 235/3, 251/8A and 252/1A at Thokkiyam village and during his life time Late Sundarajulu Naidu had executed a registered Will dated 14.11.2006 and also a settlement deed dated 26.06.2003 by which the immovable properties comprised in Survey Nos.235/1A, 235/3 and 251/8A were settled to and in favour of the petitioner among other properties at Thokkiyam Village. Subsequently, the petitioner's father Sundarajulu Naidu died on 19.11.2007, and thereafter, the petitioner is in absolute possession and enjoyment of the said property.

3. It is also the case of the petitioner that the widow of her brother by name Suguna filed a suit in O.S.No.276 of 2009 on the file of the Additional District Munsif Court at Thirupattur claiming declaration of title and for consequential permanent injunction with regard to the properties referred to above and the suit was contested by her and other defendants, and the Hon'ble Additional District Munsif Court was pleased to dismiss the suit by Judgment and Decree dated 17.09.2019 finding the above said Suguna has got no right over the properties in question and found her right over the properties in question that came to her by virtue of Will and settlement so declared giving appropriate findings on merits referring to legal evidence on record.

4. The further case of the petitioner is that she applied for the certified copies of the Judgment and Decree and obtained the same on 07.12.2020. Thereafter, she submitted the certified copies of the Judgment and Decree before the 1st respondent for being registered and the instruments namely the Judgment and Decree dated 17.09.2019 were taken on file under Document No.P/8/2021 dated 19.02.2021, but the said Judgment and Decree were not registered but returned by impugned order dated 19.02.2021 referring to Section 2(14) of Indian Stamp Act r/w Rule 72 of the Registration Rules framed under Section 69 of the Registration Act 1908. The 1st respondent also referred to the proceedings of the 3rd respondent in the impugned order, and aggrieved by the same, she has filed this Writ Petition before this Court stating that the impugned order is vitiated by Arbitrariness besides being violative of the mandatory provisions of Section 2(14) of Indian Stamp Act read with Section 17(b) of the Registration Act 1908. The reasons assigned by the 1st respondent referring to the proceedings of the Inspector General of Registration is totally inappropriate and unreasonable.



5. It is further stated in the petition that the impugned order refers to Rule 72 of the Registration Rule without any significance and the provisions of the Rule 72 totally non-applicable with regard to the Registration of an instrument namely Judgment and Decree submitted. As contemplated under Section 2(14) of the Indian Stamp Act, the Judgment and Decree of the Civil Court relating to immovable property are instruments recoding the rights of the petitioner with regard to the immovable property and therefore the refusal to register the Judgment and Decree of the Civil Court is totally illegal and hence the impugned order is liable to be set aside. It is moreover stated in the petition that with regard to the provisions of Section 17(b) of the Registration Act, 1908, the registration of Judgment and Decree by the 1st respondent as sought for by the petitioner, is not only mandatory but also compulsory. When the petitioner is prepared to comply with all legal requirements for a registration, it is incumbent on the part of the 1st respondent to register the instrument as contemplated under Section 17(b) of the Registration Act, 1908.

6. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials available on record.

7. On perusal of the records, it is seen that the 1st respondent returned the petitioner's instruments namely the Judgment and Decree dated 17.09.2019 only based on the order passed by the 2nd respondent vide Proceedings No.966/Aa1/2020 dated 17.02.2021 which was subsequent to the said Judgment and Decree dated 17.09.2019 in O.S.No.276 of 2009 filed by one Suguna who is none other than the widow of the petitioner's brother before the Additional District Munsif Court, Tiruppattur, claiming declaration of title and for permanent injunction with regard to the subject matter of the property.

8. On perusal of the Judgment and Decree dated 17.09.2019 made in O.S.No.276 of 2009 on the file of the Additional District Munsif Court, Tiruppattur, it is seen that the petitioner herein is one of the defendants in the suit and she claimed before the Court below that the suit properties are the self-acquired properties of her father Late G.V.M.Sundarajilu Naidu and during his life time he had settled the properties to all his sons and daughters by way of registered Will dated 14.11.2006. The Revenue records stand in the name of G.V.M.Sundarajilu Naidu. The plaintiff and her husband created forged documents to obtain properties of other legal heirs of G.V.M.Sundarajilu Naidu and the plaintiff's husband does not have any right to execute a settlement deed in favour of his wife in respect of the suit properties as the same was already allotted to the legal heirs of G.V.M.Sundarajilu Naidu. The



plaintiff and her husband obtained revenue documents by giving false information, but the same was subsequently cancelled by the revenue department after enquiry. The defendants have been in possession and enjoyment of the suit properties till date based on the Settlement deed executed by G.V.M.Sundarajilu Naidu. Hence, the plaintiff and her husband are not entitled to claim any title over the said properties.

9. The plaintiff has claimed before the Court below that the suit properties belonged to the plaintiff's husband S.Bakthavatchalam as per the family partition and also as per the Judgment passed in O.S.No.281 of 2004. Since the plaintiff's husband was suffering from diabetes and could not manage the properties, he executed a settlement deed on 09.05.2003 in favour of the plaintiff. As per the said deed, the plaintiff obtained the suit properties and she has been in possession and enjoyment of the same by changing the revenue documents in her name.

10. It is seen from the order passed by the Learned Additional District Munsif that though the plaintiff has claimed title over the suit properties based on the oral partition took place in the year 1998 between the family members of her husband, the same was not proved by the plaintiff by placing proper evidence before the Court below. According to the plaintiff, the suit properties originally belonged to her father-in-law G.V.M.Sundarajilu Naidu. But the plaintiff did not clearly state how the said G.V.M.Sundarajilu Naidu derived title over the suit properties and how the share was allotted to her husband in the family partition. Since the plaintiff failed to prove her title over the suit properties, the Learned Additional District Munsif dismissed the suit in favour of the petitioner / 1st defendant on 17.09.2019.

11. After passing the above decree, the petitioner obtained the copy of the decree and approached the 1st respondent for registering the said Judgment and Decree dated 17.09.2019. But the 1st respondent, based on the order passed by the 2nd respondent vide proceedings dated 17.02.2021, returned the document namely Judgment and Decree without registering the same. Aggrieved by the same, the petitioner has approached this Court.

12. On going through the order dated 17.02.2021 passed by the 2nd respondent, this Court observes that even though the suit was decreed in favour of the petitioner / 1st defendant on 17.09.2019, the 2nd respondent issued a direction to the 1st respondent not to register the document namely Judgment and Decree dated 17.09.2019 submitted by the petitioner on 05.02.2021 stating that the said document was filed belatedly



after a period of 1 year 5 months from the date of receipt of the order, which is against the provisions of Section 23 of the Registration Act, 1908.

13. At this juncture, it would be pertinent to point out the Judgment of this Court in W.P.(MD).Nos.8091, 8093 and 9446 of 2020 in the case of [M.Rajendran v. Inspector General of Registration and Ors], wherein, this Hon'ble Court has held that the period of limitation prescribed under Section 23 of the Registration Act, 1908 will not apply when it comes to the registration of Court decrees passed by Civil Courts.

14. In view of the settled legal position laid down by this Court, the Sub Registrar cannot refuse to register any order or decree on the ground that the same has been presented beyond the period of limitation provided under Section 23 of the Act. Hence, the 1st respondent, Sub Registrar, shall entertain the certified copy of the decree that is presented by the petitioner and shall register the same.

15. Accordingly, this Writ Petition is allowed and the proceedings in Na.Ka.No.74/2021 dated 19.02.2021 on the file of the 1st respondent is quashed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

raja

To

1. The Sub - Registrar,
Registrar Office,
Thirupattur, Vellore District.
2. The District Registrar,
Thirupattur, Vellore District,
3. The Inspector General of Registration,
Santhome, Chennai - 600 028.

+1cc to the Government Pleader, High Court, Madras S.R.No.44556
W.P.No.13991 of 2021
and W.M.P.No.14863 of 2021

SJ(CO)
RGA(27/10/2021)