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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2021

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No.14958 of 2021

Mrs.Saleth Mary

...Petitioner

VS

The Sub Registrar,
Thiruthuraipoondi,
Thiruvarur.

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent pertaining to Refusal Check Slip No.RFL/Thiruthuraipoondi/34/2021 dated 30.04.2021 and quash the same and to direct him to register the Final Decree dated 23.09.2020 passed by the Principal District Judge, Thiruvarur in I.A.No.81 of 2019 in O.S.No.19 of 2012.

For Petitioner : Mr.P.Seshubalan Raja

For Respondent : Mr. Yogesh Kannadasan
Government Advocate

O R D E R

The Writ Petition has been filed for Certiorarified Mandamus seeking the records of the respondent viz., The Sub Registrar, Thiruthuraipoondi, Thiruvarur, with respect to the Refusal Check Slip No.RFL/Thiruthuraipoondi/34/2021 dated 30.04.2021 and to withdraw the same and direct the respondent to register the final decree dated 23.09.2020 passed by the learned Principal District Judge, Thiruvarur, in I.A.No.81 of 2019 in O.S.No.19 of 2012.



2.The petitioner herein and her elder daughter had filed O.S.No.19 of 2021 against her younger daughter before the Principal District Court, Thiruvvarur, seeking partition of her house property and other properties. A preliminary decree was passed in 07.01.2019 by the learned Principal District Judge, Thiruvvarur. An appeal in A.S.No.490 of 2017 filed against the preliminary decree was dismissed by this Court on 12.09.2018. The petitioner had applied for a final decree in I.A.No.81 of 2019 and the same was allowed on 23.09.2020. The petitioner had thereafter obtained final decree engrossed in the non-judicial stamp papers and furnished the same for registration. The respondent refused to register the final decree on the ground that the value of the properties has to be valued as per Section 7 of the Tamil Nadu Court Fees and Suit Valuation Act 1955.

3. The said reasoning has to be rejected and to be interfered.

4.The said value is only for the value of the suit and such valuation is for payment of court fees. There is no relation or connection with the stamp papers payable for the registration charges and the Sub-Registrar cannot compel that to be paid. There cannot be a stipulation to pay the same Court fees twice over.

5. Therefore, the said cheque slip dated 30.04.2021 is set aside and the petitioner may present the said final decree passed in I.A.No.81 of 2019 in O.S.No.19 of 2012 dated 23.09.2020 before the respondent viz.,The Sub Registrar, Thiruthuraipoondi, Thiruvvarur, on payment of necessary stamp duty as prescribed under the Stamp Act 1899 and also pay necessary registration charges as under the Registration Act 1909 and a direction is given to the Sub-Registrar, Thiruthuraipoondi, Thiruvvarur, to register the final decree and release the documents to the petitioner herein.

6.The petitioner may represent the said papers for registration within a period of two weeks from the date of receipt of copy of this order and upon receipt of the same, the respondent is directed to register the final decree and release the documents to the petitioner immediately.



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7. With the above observation, the Writ Petition is allowed. There shall be no order as to costs.

Sd/-
Assistant Registrar (CS-IV)

// True Copy //

Sub Assistant Registrar

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To

The Sub Registrar,
Thiruthuraipoondi,
Thiruvarur.

+1cc to M/s.P.Sesubalan Raja, Advocate SR.No.39220

+1cc to the Government Pleader SR.No.39769

W.P.No.14958 of 2021

SSV(CO)
RVM(09/09/2021)