



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2021

CORAM:

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P. No.18126 of 2021

N.Lakshmi

... Petitioner

-Vs-

The Sub Registrar
Kundrathur sub Registration Office,
Chennai.

... Respondent

PRAYER: This Petition is filed under Article 226 of the Constitution of India, praying for the issue a Writ of Mandamus, directing the respondent to register the certified copy of the compromise decree dated 03.12.2018 passed in O.S.No.185 of 2016 on the file of Hon'ble Subordinate Court at Poonamallee on payment of necessary stamp duty and necessary registration charges and without insisting on the period of limitation under Section 23 of the Registration Act,1908 and pass orders accordingly.

For Petitioner :: Mr.N.Panneer Kumar

For Respondent :: Mr.Yogesh Kannadasan
(Government Advocate)

* * * * *

O R D E R

The relief sought for in this writ petition is for a direction to the directing the respondent to register the certified copy of the compromise decree dated 03.12.2018 passed in O.S.No.185 of 2016 on the file of Hon'ble Subordinate Court at Poonamallee on payment of necessary stamp duty and necessary registration charges and without insisting on the period of limitation under Section 23 of the Registration Act,1908 and pass orders accordingly.

2.The learned counsel for the petitioner would submit that due to civil dispute between family members, the suit in



O.S. No. 185 of 2016 has been instituted by the petitioner before the Hon'ble Subordinate Court at Poonamallee and during pendency of the above said original suit, the parties therein entered into a compromise and by recording the said compromise, the Hon'ble Subordinate Court at Poonamallee passed a compromise decree dated 03.10.2018 and by thus, the parties are entitled to their respective shares. However, based on the compromise decree, when the petitioner approached the respondent for registration of the compromise decree, the respondent refused to register the same vide Refusal No. RFL/Kundrathur/28/2021 dated 28.07.2021 on the ground that the request is time barred as per section 23 of The Registration act, 1908 and in view of the law limitation, the document cannot be registered.

3. It has been further submitted that the respondent failed to note that the limitation would apply only in other cases by not in respect of the court decree, wherein the compromise decree has been passed. Further, the compromise decree is permanent on record of court and therefore the contention of the respondent in terms of section 23 of the Registration Act, 1908 that the document cannot be registered is illegal and not valid before the eye of law.

4. The learned counsel for the petitioner relied upon the Judgments dated 26.11.2020 in W P. (MD). Nos.8091, 8093 & 9446 of 2020 and dated 25.06.2021 in W.P. (MD) No.16863 of 2020 of the Madurai Bench of the Madras High Court thereby the similar relief has been granted. Without observing the aforesaid Judgment, the respondent caused mental agony to the petitioner herein. Hence, he has no other alternative, efficacious, effective, speedy remedy except to approach this Court to invoke the extra ordinary jurisdiction under Article 226 of the Constitutional Law of India Seeking for a direction of Writ of Mandamus to the respondent herein as prayed for.

5. The learned Government Advocate appearing for the respondent would submit that as the Madurai Bench of Madras High Court has already observed such as matter as cited by the learned counsel for the petitioner. Hence, this Court may be pleased to direct the respondent to register the certified copy of the compromised decree dated 03.12.2018 passed n O.S. No.185 of 2016 on the file of the Hon'ble Subordinate Court, at Poonamallee on payment of necessary stamp duty and necessary registration charges and without insisting on the period of limitation under Section 23 of the Registration Act, 1908.



6. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent as well as perused the material available on records.

7. Having considered the facts and circumstances of the case and observations made by the Madurai Bench of Madras High Court in the similar case, in W P. (MD). Nos.8091, 8093 & 9446 of 2020 dated 26.11.2020 and in W.P. (MD) No.16863 of 2020 dated 25.06.2021, this Court directs the respondent herein to register the certified copy of the compromised decree dated 03.12.2018 passed in O.S. No.185 of 2016 on the file of the Hon'ble Subordinate Court, at Poonamallee on payment of necessary stamp duty and necessary registration charges and without insisting on the period of limitation under Section 23 of the Registration Act, 1908.

8. With the aforesaid direction and observation, the Writ petition is disposed of. Consequently, connected miscellaneous petition is closed if any. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

Lbm

To:

The Sub Registrar
Kundrathur sub Registration Office,
Chennai.

+1cc to Mr.G.Arun, Advocate, S.R.No.44041
+1cc to the Government Pleader, S.R.No.44599
+1cc to Mr.G.Arun, Advocate, S.R.No.44041(25/11/2021)

W.P. No.18126 of 2021

SR-II(CO)
CB(02/11/2021)