



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2021

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.18216 of 2021

Suresh Babu

... Petitioner

Vs.

1. The Registrar,
Rasipuram,
Salem.
2. The Sub Registrar,
Rasipuram,
Salem.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent in Proceeding Refusal Check Slip RFL/Rasipuram/60/2021 dated 29.07.2021 and quash the same as illegal, incompetent and without jurisdiction and further direct the 2nd respondent to register the decree in O.S.No.465 of 1986 on the file of the District Munsif Court, Rasipuram dated 25.07.2003.

For Petitioner : Mr.V.Raghavachari

For respondents : Mr.Yogesh Kannadasan
Government Advocate

ORDER

The petitioner has filed a certiorarified mandamus to quash the Refusal Check Slip No.RFL/Rasipuram/60/2021 of the second respondent dated 29.07.2021 and to direct the second respondent to register the judgment and decree of the District Munsif Court, Rasipuram passed in O.S.No.465 of 1986 dated



25.07.2003.

2.The case of the petitioner is that he inherited a property in S.No.30/1, Konneripatti, Salem to an extent of 48 cents vide partition agreement dated 29.02.1980 when the petitioner was allotted the above said property at that time he was only 13 years old. Taking advantage of the fact that the petitioner was a minor, the petitioner's family executed a sale deed on 08.03.1982 disposing the petitioner's share of the property. On attaining majority, the petitioner challenged the sale deed dated 08.03.1982 before the District Munsif Court, Rasipuram in O.S.No.465 of 1986 wherein he sought for a relief of declaration and recovery of possession and after the trial, the Court has decreed the suit in favour of the petitioner on 25.07.2003.

3.The petitioner submits that he filed R.E.P.No.25 of 2010 on the file of the District Munsif, Rasipuram and recovery receipt was also issued on 28.12.2012. According to the petitioner, he had executed a executed a Gift Deed in favour of his wife in respect of the property situated at S.No.30/1, Konneripatti, Salem on 22.06.2015 and the said gift deed was also registered as Document No.3052 of 2015 before the Sub Registrar, Rasipuram. As the deed required certain clarification in boundaries, the petitioner executed a rectification deed which was also registered on 22.02.2018 before the Sub Registrar, Rasipuram vide Document No.144 of 2018 and these entries are reflected in the Encumbrance certificate. The recitals of the document would indicate that the petitioner traced title from the decree that is now sought to be registered.

4.The petitioner further submits that he presented the judgment and decree passed by the District Munsif Court, Rasipuram in O.S.No.465 of 1986 for registration before the second respondent, the second respondent did not accept the same and rejected vide his Refusal Check Slip dated 29.07.2021 stating that the document had not been presented within the time prescribed under the Registration Act, 1908.

5.The petitioner submits that as per Section 23 of the Act regarding time for presenting documents that a copy of a decree or order may be presented within four months from the day on which the decree or order was made, or, where it is appealable, within four months from the day on which it becomes final.



6. According to the petitioner, there is no justification or legal basis in rejecting the application for registration. In the case of PadalaSathyanarayana Murthy vs. PadalaGangamma reported in AIR 1959 AP 626, the Court held a decree/order passed by a competent Court is not compulsorily registrable and the party cannot be compelled to get the document registered when there is no obligation cast upon him to register the same and also in a similar issue in the case of R.Gokilambal vs. The District Registrar in W.P.No.9944 of 2021 dated 23.04.2021, the Court held that the second respondent Sub Registrar cannot refuse to register the decree on the ground that it is presented beyond the period prescribed under Section 23 of the Registration Act and the said Refusal Check Slip has been set aside by the said Court and the writ petition was allowed. Relying upon the aforesaid judgment, the petitioner prayed for allowing this writ petition.

7. The petitioner is left with no other remedy except to approach this Court under Article 226 of the Constitution of India. Hence, the writ petition filed.

8. On going through the said Refusal Check Slip, it states only belated submission of documents which is not accepted by this Court. It is settled position of law that the Sub Registrar cannot compel the petitioner to register the same within a period of four months and there is no prohibition for register the same as this being a judgment and decree of the Court.

9. In view of the above, this Court is inclined to set aside the Refusal Check Slip No.RFL/Rasipuram/60/2021 dated 29.07.2021 passed by the second respondent and the writ petition is allowed by directing the second respondent to register the judgment and decree of the District Munsif Court, Rasipuram dated 25.07.2003 passed in O.S.No.465 of 1986 in accordance with law within a period of 4 weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

pam



To

1. The Registrar,
Rasipuram,
Salem.

2. The Sub Registrar,
Rasipuram,
Salem.

Copy to:

The District Munsif Court,
Rasipuram.

+1cc to M/s.V.Raghavachari, Advocate, S.R.No.44084

+1cc to the Government Pleader, S.R.No.44889

W.P.No.18216 of 2021

PMK (CO)
SU (06/10/2021)