



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2021

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.18087 of 2021

J.Suguna

... Petitioner

Versus

1. The Principal Secretary to
Government to Tamilnadu,
Department of Commercial Taxes,
Registration & Stamps Act,
Namakkal Kavignar Maaligai,
Secretariat, St. George Fort, Chennai - 600 009.
2. The Inspector General of Registration,
No.100, Santhome High Road,
Foreshore Estate, Chennai - 600 028.
3. The District Registrar,
Registration District of Central Chennai,
No.268, Bharathi Salai,
Express Estate, Royapettah, Chennai - 600 014.
4. The Sub Registrar (in the rank of the
District Registrar), Sub-Registration District
of Kodambakkam, No.375, Alagiri Nagar,
5th Street, 100 ft. Road, Koyambedu,
Chennai - 600 026.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the fourth respondent in his proceedings Na.Ka.No.88/2020 dated 22.05.2020 and quash the same and direct the fourth respondent to register the Decree and Judgment dated 26.11.2012 passed in O.S.No.5179 of 2005 on the file of XVIII Asst. City Civil Court, Chennai.

For Petitioner : Mr.S.Pushpakaran

For Respondents : Mr.Yogesh Kannadasan
Government Advocate



ORDER

Mr.Yogesh Kanndasan, learned Government Advocate takes notice on behalf of the respondents. By consent this writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition has been filed challenging the impugned order passed by the fourth respondent/Sub Registrar in his proceedings in Na.Ka.No.898 of 2020, dated 22.05.2020 and consequently to direct the 4th respondent to register the judgment and decree in O.S.No.5179 of 2005 on the file of XVIII Assistant City Civil Court, Chennai, dated 26.11.2012.

3. The case of the petitioner is that she has purchased a property measuring to an extent of 351 sqft., comprised in Paimash No.813, New Block No.27, T.S.No.128, No.109, Puliyur Village, Chennai - 600 094, Choolaimedu, Varadharajanpettai and now called Moopan Maistry Street, Egmore-Nungambakkam Taluk, Sub Registration District of Kodambakkam, Registration District of Madras Centre from one K.Munusamy @ John Vincent under registered a sale deed dated 28.05.1993 in Doc.No.2499 of 1993 on the file of SRO, Kodambakkam for valid sale consideration. After purchasing the property, the petitioner has put up a tiled house thereon and the same was enjoyed by her. In 2005, the legal heirs of the K.Munusamy @ John Vincent had filed a suit in O.S.No.5179 of 2005 before the learned XVIII Assistant City Civil Court, Chennai, for declaration and consequential injunction and the same was dismissed for default by judgment and decree dated 26.11.2012. Since the suit has been dismissed, there is no impediment for her to deal with the said property, she made arrangement to settle the property in favour of her daughter Daisyrani. At that time, she found an entry in the Encumbrance Certificate regarding ex-parte decree of permanent injunction from alienating the property measuring to an extent of 2/3 share in 351 sqft., which was subsequently set aside. Thereafter, the petitioner tried to register the dismissal order dated 26.11.2012 with the 4th respondent/Sub Registrar herein, who had refused to register the same and issued a communication dated 22.05.2020 to the petitioner. The reason given by the 4th respondent is that the order sought to be registered was passed in the year 2012 and therefore, no ways and means in the Registration Act to register the Court Order. Therefore, it is imperative for her to register the dismissal order dated 26.11.2012 to show that the property was not entangled with any encumbrance. Prior to registration of the settlement deed, the petitioner had no occasioned to know the existence of the above said entry which necessitates to register the subsequent dismissal order. Therefore, there is no delay in registering the dismissal order dated 26.11.2012. But the respondents have not taken any steps in this regard. Therefore, the petitioner has come forward with the present writ petition before this Court.



4. Though the prayer sought for in this writ petition is to issue a positive direction to the 4th respondent, learned counsel appearing for the petitioner states that the petitioner will be satisfied if a direction is issued to the fourth respondent to consider the case of the petitioner and pass orders within a time stipulated by this Court.

5. Having regard to the limited scope of prayer that is now sought for before this Court by the learned counsel for the petitioner, without expressing any opinion of the matter, this writ petition is disposed of with a direction to the fourth respondent to consider the petitioner's case and dispose of the same on merits and in accordance with law, within a period of sixteen weeks from the date of receipt of a copy of this order. No costs.

msm

-sd/-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

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Registration & Stamps Act,
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+1 C.C. to GOVERNMENT PLEADER, SR.NO.44237/2021
+1 C.C. to MR.PUSHPAKARAN, SR.NO.43505/2021

W.P.No.18087 of 2021

SV(CO)
PM(20/10/2021)