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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.19606 of 2019

Natarajan,
S/o. Late Marappa Nadar

...Petitioner

Vs.

1.The District Registrar,
Tiruppur District,
Tiruppur.

2.The Sub-Registrar,
O/o. The Sub-Registrar,
Avinashi,
Tiruppur Dt.

3.Muthusamy,
S/o. Late Marappa Nadar

...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 2nd respondent dated 10.04.2019 refusing to register the Court decree dated 07.12.2018 made in O.S.No.392 of 2016 on the file of Subordinate Court, Avinashi, Tiruppur District in respect of the property comprised in Survey Nos.661 and 5431 situate at Pudhupalayam Village, Avinashi Taluk, Tiruppur District (the then Coimbatore District) and to quash the same and consequently direct the 2nd respondent to register the said decree and to return the documents forthwith.

For Petitioner : Mr.C.Prabakaran

For Respondents : Mr.Yogesh Kannadasan,
Government Advocate for R1 & R2

Mr.S.Mukunth for
M/s.Sarvabhauman Associates for R3



O R D E R

(The case has been heard through video conference)

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The Writ Petition has been filed challenging the order passed by the 2nd respondent Sub-Registrar refusing to register judgment and decree passed by the trial court on the ground that challenging the judgment and decree passed in the suit, an appeal has been filed and the first appellate court has also stayed the judgment and decree passed by the Trial Court and in the above circumstances, the 2nd respondent Sub-Registrar, after getting legal opinion returned the document without registering the judgment and decree.

2. Mr.C.Prabakaran, learned counsel appearing for petitioner would submit that, even though the judgment and decree passed by the trial court was subjected to appeal, only in order to avoid multiplicity of proceedings, he wanted to register the judgment and decree and the pendency of the appeal is not a bar for registering the judgment and decree.

3. Mr.S.Mukunth, learned counsel appearing for 3rd respondent would submit that, even though the trial court had decreed the suit, now the first appellate court has stayed the operation of the decree and the appeal is also pending. In the said circumstances, unless the first appellate court decides the issue, there is no purpose would be served in registering the judgment and decree passed by the trial court. Hence, the 2nd respondent Sub-Registrar has rightly refused to register the document.

4. Heard rival submissions made by learned counsel appearing for petitioner as well as learned Government Advocate appearing for respondents 1 and 2 and also learned counsel appearing for 3rd respondent and perused the records.

5. Considering the fact that, now the judgment and decree passed by the trial court is the subject matter of appeal and admittedly, the first appellate court stayed the operation of decree passed in the suit and appeal is pending. In view of the stay granted by the trial court, the decree passed in the suit is not in operation. Hence, no purpose would be served in registering the judgment and decree passed by the trial court. Considering those circumstances, the 2nd respondent Sub-Registrar has rightly returned the judgment and decree and refused to register the same and I find no illegality in the order passed by the 2nd respondent. However, in the event of any decree passed by the first appellate court in favour of petitioner, it is always open to him to approach the 2nd respondent seeking for



registration of the judgment and decree. Accordingly, this Writ Petition stands dismissed. No costs.

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Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

rpp

To

1.The District Registrar,
Tiruppur District,
Tiruppur.

2.The Sub-Registrar,
O/o. The Sub-Registrar,
Avinashi,
Tiruppur Dt.

+1cc to M/s.C.Prabakaran, Advocate. Sr.No.32954

+1cc to the Government Pleader, Sr.No.33537

+1cc to M/s.Sarvabhauman Associates, Sr.No.32828

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AD(CO)
RVM(06/08/2021)