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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2021

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.NO.19328 OF 2021

Neelammal

... Petitioner

.Vs.

The Sub Registrar,
Pochampalli,
Pochampalli Taluk,
Krishnagiri District.

... Respondent

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Refusal Check slip in Refusal number RFL/POCHAMPALLI/7/2021 dated 05.08.2021 and to quash the same as illegal and incompetent and consequently direct the respondent to register the decree dated 22.12.2017 passed in I.A.No.145 of 2017 in O.S.No.77 of 2012 on the file of the District Munsif cum Judicial Magistrate, Pochampalli.

For Petitioner : Mr.V.Sakkarapani

For respondent : Mr.Yogesh Kannadasan
Government Advocate

ORDER

This writ petition has been filed for a certiorarified mandamus to quash the Refusal Check Slip in Refusal No.RFL/POCHAMPALLI/7/2021 dated 05.08.2021 and consequently direct the respondent to register the decree dated 22.12.2017 passed in I.A.No.145 of 2017 in O.S.No.77 of 2012 passed by the District Munsif cum Judicial Magistrate, Pochampalli.

2. The case of the petitioner is that his grandfather owned and possessed some properties and after his demise, his father viz., Ponnusamy Gounder inherited the properties and he died on 04.02.1997 and thereafter his sister viz., Murugammal had filed



a suit for partition and for declaration in O.S.No.77 of 2012 before the District Munsif cum Judicial Magistrate, Pochampalli, claiming 1/5th share in the suit properties as against him and other legal heirs of the deceased Ponnusamy Gounder.

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3. The petitioner submits that after contest the suit in O.S.No.77 of 2012 was decreed, and preliminary decree was passed on 24.10.2016. According to the petitioner, thereafter, the said Murugammal filed a Final Decree application in I.A.No.145 of 2017 in O.S.No.145 of 2017 in O.S.No.77 of 2012 before the District Munsif cum Judicial Magistrate, Pochampalli and during pendency of the same, the parties to the suit wanted to settle the dispute amicably and therefore they entered into a compromise.

4. The petitioner further submits that the plaintiff together with the defendants had filed a compromise petition in I.A.No.382 of 2017 and based on the compromise, the case was reserved for passing final decree on 22.12.2017. According to the petitioner, thereafter, the Presiding Officer was transferred and the case was kept pending for passing Final Decree and the Final Decree was made ready only by the next Presiding Officer who took charge.

5. According to the petitioner, he wanted to register the Final Decree passed in I.A.No.145 of 2017 in O.S.No.77 of 2012 passed by the District Munsif cum Judicial Magistrate, Pochampalli dated 22.12.2017 before the Sub Registrar, Pochampalli and he presented the decree for registration but the respondent refused to register the Final Decree on the ground that there is a delay in submitting the documents for registration and issued a Refusal Check Slip on 05.08.2021.

6. In support of his contentions, the petitioner relied upon the following judgments:

(a) A judgment of a learned Single Judge of this Court dated 23.09.2020 in the case of S.Nataraj vs. The Sub- Registrar, Tiruppur District in W.P.No.13309 of 2020, relevant paragraphs of the above said judgment is extracted hereunder:

6...."this Court in uncertain terms has held that the law of limitation prescribed under Section 23 and 25 of the Act will not apply to a Court decree, since it is not compulsorily registrable.

7. In view of the settled position of law, this Court has no hesitation to interfere with the impugned letter issued by the respondent and



accordingly the same is quashed. The respondent is directed to register the final decree submitted by the petitioner, if it is otherwise in order."

(b) A judgment of a learned Single Judge of this Court dated 03.01.2020 in the case of S.Arivazhagan vs. The Sub Registrar, Salem District in W.P.No.29680 of 2013, relevant paragraph of the above said judgment is extracted hereunder:

"...4.In the light of the above settled legal position and also the factual position, the respondent could not have refused registration of the Court decree. For the above reasons, the writ petition is allowed, the impugned order is quashed and the petitioner is directed to re-present the judgment and decree passed by the Court before the Sub-Registrar, who shall receive the same and register the decree within a period of three days from the date of re-presentatiion. No costs."

Relying upon the aforesaid judgments, the petitioner prayed for allowing this writ petition.

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

8. The learned Government Advocate for the respondent would submit that the Court may pass appropriate orders and the respondent will register the same.

9. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent and perused the materials available on record.

10. On going through the said Refusal Check Slip, it states that there is a delay in submitting the documents for registration, 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.

11. In view of the above and the submissions made by the learned counsel for the petitioner, this Court is inclined to set aside the Refusal Check Slip No.RFL/POCHAMPALLI/7/2021 dated 05.08.2021 issued by the respondent and the writ petition is allowed by directing the respondent to register the decree dated 22.12.2017 passed in I.A.No.145 of 2017 in O.S.No.77 of 2012 passed by the District Munsif cum Judicial Magistrate,



Pochampalli, in accordance with law, within a period of 8 weeks from the date of receipt of a copy of this order. No costs.

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Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

pam

To

The Sub Registrar,
Pochampalli,
Pochampalli Taluk,
Krishnagiri District.

Copy To:

The District Munsif-cum-Judicial Magistrate,
Poochampalli.

+1cc to Mr.V.Sakkarapani, Advocate, S.R.No.46809
+1cc to the Government Pleader, S.R.No.47172

W.P.NO.19328 OF 2021

CP(CO)
PBS/11/10/2021