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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.19634 of 2021

M.Chandraboss

... Petitioner

-Vs-

1. The Sub-Registrar,
Virugambakkam Sub-Registration District,
Arcot Road, Virugambakkam,
Chennai-93.

2. Samuvel

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the first respondent to register the Lok Adalat Award, dated 11.02.2017 made in O.S.No.210 of 2016 on the file of the Sub-Court, Poonamallee.

For Petitioner : Mr.B.Manoharan

For R1 : Mr.Yogesh Kannadasan
Government Advocate.

ORDER

This Writ Petition has been filed for the issuance of a Writ of Mandamus, directing the first respondent to register the Lok Adalat Award, dated 11.02.2017 made in O.S.No.210 of 2016 on the file of the Sub-Court, Poonamallee.

2. Heard Mr.B.Manoharan, learned counsel appearing for the petitioner, Mr.Yogesh Kannadasan, learned Government Advocate appearing for the first respondent.

3. The property comprised in Survey No. 72/1, ad-measuring 2152 sq.ft situated at Valasaravakkam Village, Maduraiyoyal Taluk, Chennai District was jointly purchased by the petitioner and his brother by the registered sale deed dated 19.02.1996 registered vide Document No.747 of 1986 on the file of the first respondent. Thereafter, the petitioner developed the southern portion of the subject property and his brother developed the northern portion. However, the petitioner filed a suit in O.S.No.210 of 2016 on the file of the Sub Court, Poonamallee.



4. Pending the suit, there was a compromise between them and they entered into compromise before the Lok Adalat by an Award, dated 11.02.2017 and their compromise was recorded. The said decree was presented for registration before the first respondent. However, the first respondent refused to register the same.

5. The learned counsel for the petitioner relied upon the Judgment of this Court in W.P.No.8093 and 9446 of 2020. This Court held that the Sub- Registrar cannot refuse to register any order or decree only on the ground that the same has been presented beyond a period of limitation provided under Section 23 of the Act. Hence, the Sub-Registrar shall entertain the certified copy of the decree that is presented by the petitioner and shall register the same. Insofar as the registration fees is concerned, it has to be levied, the law is no longer res-integra and the registration fees should be levied only on the total value of the suit and not on the value of the property. Therefore, the Registrar cannot insist the payment of the Registration fees based on the value of the property.

6. The first respondent filed a counter and revealed that the petitioner has not paid any stamp duty for the partition entered between the petitioner and his brother. Therefore, the petitioner is liable to pay the necessary stamp duty and registration fees on the partition deed. The first respondent also relied upon the Judgment of this Court in W.P.No.18823 of 2017, dated 01.12.2020. This Court held that while pending partition suit, the parties have entered into compromise before the Lok Adalat and award was passed. Thereafter, the said award was presented for registration and the award passed by the Lok Adhalat cannot be construed as a final decree and therefore, the registering authority cannot insist to pay the stamp duty on par with the final decree in a suit for partition. Therefore, the registering authority should register the documents after receiving necessary stamp duty and registration fees from the petitioner.

7. Considering the above, the first respondent is directed to register the Lok Adalat award, dated 11.02.2017 made in O.S.No.210 of 2016 on the file of the Sub Court, Poonamallee, after collecting the necessary stamp duty and the registration charges on the partition deed entered between the petitioner and his brother.

8. With the above direction, this writ petition is disposed of. There shall be no order as to costs.

Sd/-
Assistant Registrar

//True copy//



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To

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The Sub-Registrar,
Virugambakkam Sub-Registration District,
Arcot Road, Virugambakkam,
Chennai-93.

+1cc to Government Pleader SR.No.57883

W.P.No.19634 of 2021

PM(CO)
GMY(26/11/2021)