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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2021

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.NO.19882 OF 2021

Jaiganesh

... Petitioner

Vs.

The Sub Registrar
Mylapore,
Chennai - 4.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in his proceedings in Refusal No.RFL/Mylapore/28/2021 dated 31.08.2021 and quash the same and thereby direct the respondent to receive and register the Certified copy of the Decree in O.S.No.304/2014 dated 05.04.2018 on the file of the Learned VIIIth Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.N.Suresh

For Respondent : Mr.Yogesh Kannadasan
Government Advocate

ORDER

This writ petition has been filed for issuance of Writ of Certiorarified Mandamus to quash the proceedings of the respondent dated 31.08.2021 in Refusal No.RFL/Mylapore/28/2021 and further direct the respondent to receive and register the Certified copy of the Decree in O.S.No.304 of 2014 dated



05.04.2018 passed by the learned VIII Assistant Judge, City Civil Court, Chennai.

2.The case of the petitioner is that he had filed a suit for declaration that the partition from Release Deed dated 25.11.2011 executed by the defendants 1 to 3 and registered as Document No.2877/2011 before the SRO, Mylapore, which pertains to the basement area of the suit 'B' schedule property therein as illegal, null and void and the same is unenforceable and for consequential injunction.

3.The petitioner submits that the suit for declaration in O.S.No.304 of 2014 before the learned VIIIth Assistant Judge, City Civil Court, Chennai against one N.S.Suresh and the Court had rendered the judgement in their favour and declared that the partition cum release dated 25.11.2011 registered as Document No.2877 of 2011 as unenforceable, illegal and void.

4.The petitioner further submits that the cause of action for the suit was the illegal partition cum release deed dated 25.11.2011 which came into existence as registered Document No.2877/2011 before the SRO, Mylapore regarding the partitioning the basement of the apartment.

5.According to the petitioner, after the decree was passed by the Learned VIII Assistant Judge, City Civil Court on 05.04.2018, he had filed a writ petition before this Court in W.P.No.34086 of 2018 for a direction to the respondent to receive and register the decree in O.S.No.304 of 2014, this Court by an order dated 21.12.2018, directed to represent the document once again and thereby directed the respondent to consider the document once again and registered the document.

6.According to the petitioner, thereafter, a fresh certified copy of the decree was obtained and presented by one of the plaintiff therein viz., Sriram before the respondent on 27.08.2021 after getting on-line appointment for registering the document and the same was returned without being registered.

7.According to the petitioner, again on 31.08.2021, the certified copy of the decree was presented for registration through on-line but it was seen that the said Registrar had returned the same stating that there is a delay of 240 days and hence cannot be registered.



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8. According to the petitioner, the Refusal Check Slip issued by the respondent dated 31.08.2021 in Refusal No.RFL/Mylapore/28/2021 is illegal and contrary to the principle laid down by law.

9. According to the petitioner, the respondent had committed contempt of Court by not obeying the orders of this Court in W.P.No.34086 of 2018 dated 21.12.2018.

10. The learned counsel appearing for the petitioner submits that the petitioner will be satisfied if a direction is issued to the respondent to receive and register the Certified copy of the Decree in O.S.No.304 of 2014 dated 05.04.2018 passed by the learned VIIIth Assistant Judge, City Civil Court, Chennai and he further submits that on the principle laid down by law stating that the law of limitation prescribed under Section 23 of the Registration Act, 1908 could not apply to the Court decree at all and hence the petitioner has no other remedy except to approach this Court under Article 226 of the Constitution of India. Hence, the writ petition filed.

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

12. In view of the above facts and circumstances, this Court is of the view that the time limit stipulated under Section 23 of the Registration Act, 1908 could not apply to the Court decree and the Refusal Check Slip dated 31.08.2021 issued by the respondent is hereby quashed and the writ petition is allowed by directing the Sub-Registrar to register the certified copy of the Decree in O.S.No.304 of 2014 dated 05.04.2018 within a period of four weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar

gba/pam



To

The Sub Registrar
Mylapore,
Chennai - 4.

+1cc to Mr.N.Suresh, Advocate, S.R.No.47757

+1cc to the Government Pleader, S.R.No.48592

W.P.No.19882 of 2021

GSM(CO)
RLP(05/10/2021)