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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2021

CORAM:

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P. No.21336 of 2021

P.Muthu,

... Petitioner

-Vs-

1.The Inspector General of Registration,
No.100, Santhome High Road,
Foreshore Estate, Pattinapakkam,
Chennai - 600 028.

2.The Sub-Registrar,
Sulur Sub Registrar's Office, Sulur Taluk,
Coimbatore District.

... Respondents

PRAYER: This Petition is filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus to call for the records relating to the refusal Check Slip dated 09.09.2021 on the file of the second Respondent herein, quash the same as being illegal, arbitrary and unconstitutional and direct the respondents to register the National Lok Adalat award dated 08.02.2020 in Lok Adalat Case No. 4 of 2020 in O.S. No. 164 of 2019 on the file of District Munsif Court, Palladam and pass orders accordingly.

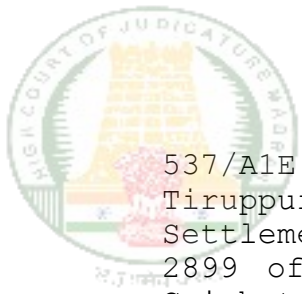
For Petitioner :: Mr. K. Vasanthanayagan

For Respondents :: Mr.Yogesh Kannadasan
(Government Advocate)

O R D E R

The Writ petition has been filed for issuance of Writ of Certiorarified Mandamus to call for the records relating to the refusal Check Slip dated 09.09.2021 on the file of the 2nd Respondent herein, quash the same as being illegal, arbitrary and unconstitutional and direct the respondents to register the National Lok Adalat award dated 08.02.2020 in Lok Adalat Case No. 4 of 2020 in O.S. No. 164 of 2019 on the file of District Munsif Court, Palladam and pass orders accordingly.

2. The case of the petitioner is that the property ad-
<https://hcservices.ecourts.gov.in/hcservices/> measuring an extent of 2.81 Acres comprised in Survey No.



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537/A1E situated at Samalapuram Village, Palladam Taluk, Tiruppur District was acquired by the petitioner vide Settlement Deed dated 16.03.2011 in registered Document No. 2899 of 2011 on the file of Sub-Registrar office at Suler, Coimbatore. The petitioner is in peaceful possession and enjoyment of the said property without any hindrance. A piece of the aforesaid land ad-measuring an extent of 21 cents was let out to one Mr. B.Ganesha Moorthy for lease of a period of 25 years for running a petrol bunk vide Lease deed dated 02.11.2017 through registered document No. 8717 of 2017 on the file of Sub-Registrar office at Suler, Coimbatore. As per the terms of the lease deed, the Lessee Mr. B. Ganesha Moorthy has to pay a sum of Rs. 5,00,000/- as advance at the time of the execution of the said Lease deed. Further, the monthly rent of the said portion of the land has been fixed as a sum of Rs. 11,000/-. However, the lessee has paid a sum of Rs. 2,00,000/ alone as advance at the time of the execution of the lease deed instead of Rs.5,00,000/- being an advance. Since the lessee failed to pay the balance advance amount to the tune of Rs. 3,00,000/- at the time of the execution of the said lease deed, the petitioner has approached the said Mr. B. Ganesha Moorthy on several occasions to pay the same. Despite many requests and reminders, the lessee namely, Mr. B. Ganesha Moorthy, did not pay the balance advance amount as per the Lease deed executed between them even after the said portion of land was let out to him and the same was taken for his business purpose. Further, the lessee had defaulted to pay the monthly rent as per the lease deed from the very first month itself. Hence, the petitioner has requested the said Mr. B. Ganesha Moorthy several times to pay the dues of Rent and advance from commencing the lease period totaling an amount of Rs.5,64,000/-. However, the lessee has not turned up to pay the aforesaid dues payable to the petitioner herein. While being so, on 04.11.2019, the petitioner has sent a legal notice to the said lessee to revoke the said lease deed dated 02.11.2017 claiming the arrears of rent payable by the Lessee. Even after due receipt of the said legal notice, the lessee has neither given reply nor come forward to comply with notice of the petitioner herein. Hence, the petitioner has filed a suit for recovery of money and mandatory injunction in O.S. No. 164 of 2019 on the file of District Munsif Court, Palladam. During the pendency of the said suit, both the petitioner and lessee namely, Mr. B. Ganesha Moorthy have decided to settle the issue amicably before the Lok Adalat. On 08.02.2020, both of them were appeared before the National Lok Adalat held before the Taluk Legal Service Committee, Palladam and the said Mr. B. Ganesha Moorthy was inclined to accept the revocation of the said lease deed and accordingly the award dated 08.02.2020 has been passed. Thereafter in the month of March, 2020, Government of India has announced the National Wide Lockdown due to the spread of pandemic Covid-19 Virus. Due to the same, the petitioner could not register the said award dated 08.02.2020 before the Sub Registrar concerned/2nd Respondent herein at the time of the lock down period. After



release of Lock down, the petitioner has presented the certified copy of the award dated 08.02.2020 for registration before the 2nd respondent herein on 09.09.2021. However, the 2nd respondent herein has returned the document along with the refusal check slip on the same day, citing the reason that as per section 23 of the Indian Registration Act, 1908, the document could have been registered within four months from the date of the execution of the said document but the petitioner presented the decree beyond the limited period. Being aggrieved on the said refusal check slip dated 09.09.2021, the petitioner has filed the present Writ petition seeking for issuance of Writ of Certiorarified Mandamus to call for the records relating to the refusal Check Slip dated 09.09.2021 on the file of the 2nd Respondent herein, quash the same as being illegal, arbitrary and unconstitutional and direct the respondents to register the National Lok Adalat award dated 08.02.2020 in Lok Adalat Case No. 4 of 2020 in O.S. No. 164 of 2019 on the file of District Munisif Court, Palladam and pass orders accordingly.

3. The learned counsel for the petitioner would submit that the Impugned Refusal Check Slip dated 09.09.2021 is contrary to law, illegal, arbitrary and unconstitutional and needs intervention of this Hon'ble Court since the second respondent herein has failed to note that the limitation prescribed under Section 23 of the Indian Registration Act, 1908 cannot stand attracted, insofar as the limitation is concerned for registration of Court decree, as it is not compulsorily registrable document.

4. It has been further submitted that the second respondent failed to note that the circular issued by the first respondent dated 26.10.2002 to the Registrars' & Sub Registrars' Office all over the state wherein the Registering Authority shall not to reject or refuse the registration of the court decree on the ground of limitation as prescribed under section 23 of the Act. However, the 2nd respondent failed to appreciate the fact that the registration of the court decree/award is only optional, by exercising such option, if the parties desire to register any court decree/award, the same can be treated only as an optional registration, for which, the limitation prescribed under Section 23 of the Act cannot be strictly construed as a mandatory requirement.

5. The learned counsel for the petitioner further submitted relying on the Judgment in W.P.(MD) No.3896 of 2019 in the case of the "K. Krishnan Vs. The Inspector General of Registration" and in W.P. No.30293 of 2019 in the case of the "Vellaiammal Vs. The Sub-Registrar, Salem District" that the second respondent failed to note that the limitation prescribed for registration of the court decree/award under section 23 of the Act is not mandatory. It is only directory and therefore, requirement of registration



of the court decree/award within four months as contemplated under Section 23 of the Act cannot be put against any party, who wants to register the Court decree or order. Hence, the second respondent ought to have registered the National Lok Adalat award dated 08.02.2020 in Lok Adalat Case No. 4 of 2020 in O.S. No. 164 of 2019 on the file of District Munsif Court. However, the 2nd respondent has refused to register the Court's award and returned the same by way of refusal check slip dated 09.09.2021. In such circumstances, aggrieved by the impugned refusal Check Slip dated 09.09.2021 of the second respondent herein, the petitioner has filed the present Writ petition seeking for issuance of Writ of Certiorarified Mandamus to call for the records relating to the refusal Check Slip dated 09.09.2021 on the file of the second Respondent herein and quash the same.

6. The learned Government Advocate appearing for the respondents would submit that as Madurai Bench of this Court and this Court has already passed Judgment in this regard as relied by the petitioner herein, the respondents may be directed to register the National Lok Adalat Award dated 08.02.2020 passed in Lok Adalat Case No.4 of 2020 in O.S. No.164 of 2019 on the file of the District Munsif Court, Palladam.

7. Heard, the learned counsel for the petitioner and the learned Government Advocate for the respondents as well as perused the material available on records.

8. Having considered the facts and circumstances of the case and observations of this Court and Madurai Bench of this Court in the aforesaid cases as well as the Nation wide lock down due to Covid 19, the 2nd respondent is directed to register the National Lok Adalat Award dated 08.02.2020 passed by the District Munsif Judge, Palladam within a period of eight weeks from the date of receipt of copy of this order.

9. In the result, the Writ petition is allowed setting aside impugned refusal Check Slip dated 09.09.2021 on the file of the 2nd respondent. Consequently, connected miscellaneous petition is closed if any. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

Lbm



To:

1.The District Munsif,
Palladam.

2.The Inspector General of Registration,
No.100, Santhome High Road,
Foreshore Estate, Pattinapakkam,
Chennai - 600 028.

3.The Sub-Registrar,
Sulur Sub Registrar's Office, Sulur Taluk,
Coimbatore District.

+1cc to Mr.K.Vasanthanayagan, Advocate SR. No.51669

+1cc to the Government Pleader SR. No.52446

W.P. No.21336 of 2021

PCH (CO)
PR (30/11/2021)