



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.26228 OF 2021

Sithaiyan

...Petitioner

Vs

1.The Inspector General of Registration,
100, Santhome High Road,
Chennai - 600 028.

2.The Sub-Registrar,
Office of the Sub Registrar,
Jalakandapuram.

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the second respondent in Check Slip No.1/2021 dated 20.07.2021 and quash the same and consequently issue direction directing the second respondent to register preliminary judgment and decree passed in O.S.No.62 of 2014 dated 24.07.2015 and final decree passed in I.A.No.117 of 2016 in O.S.No.62 of 2014, dated 25.11.2019 on the file of the Sub Court, Sankarai.

For Petitioner : Mr.R.Marudhachalamurthy

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

This writ petition is filed to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent in Check Slip No.1/2021 dated 20.07.2021 and quash the same and consequently issue direction to direct the second respondent to register preliminary judgment and decree passed in O.S.No.62 of 2014 dated 24.07.2015 and final decree passed in I.A.No.117 of 2016 in O.S.No.62 of 2014, dated 25.11.2019 on the file of the Sub Court, Sankari.



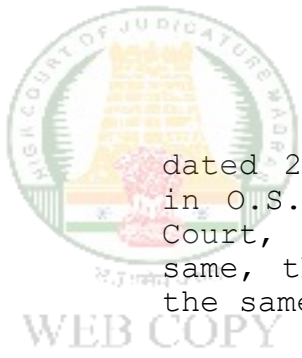
2. The petitioner filed a suit in O.S.No.62 of 2014 for partition and other consequential relief in respect of agricultural property comprised in S.No.13/3, ad-measuring an extent of 1.61.00 hectares in connection with Patta No.594, situated at Vembaneri Village, Edappadi Taluk, Salem District. The said suit was decreed by the judgment and decree dated 24.07.2015. In I.A.No.117 of 2016, a final decree was passed on 25.11.2019. The petitioner obtained certified copy of the same through his counsel on 19.10.2020. However, the petitioner was unable to receive the same from his counsel, in view of Covid-19 pandemic situation and curfew. The judgment and decree the obtained by the petitioner in the month of May 2021 and presented the judgment and decree before the second respondent for registration on 20.07.2021. However, it was returned for the reason that it was presented belatedly quoting provisions of Section 23 of the Registration Act, 1908 (hereinafter referred to as 'the Act' for short). Accordingly, the document should be presented for registration within a period of four weeks from the date of execution. In this regard, the learned counsel appearing for the petitioner relied upon the judgment of the Madurai Bench of this Court in W.P.(MD).No.12428 of 2021, dated 23.07.2021. The relevant portion of the order are extracted hereunder:-

"5. The above judgment will squarely apply to the facts of the present case. This Court is no uncertain terms has held that the law of limitation prescribed under Sections 23 and 25 of the Act will not apply to a Court decree, since it is not compulsory registrable.

6. In view of the settled position of law, the third respondent is directed to register the certified copies of the decree dated 07.07.1979, passed in the suit in O.S.No.12 of 1979, on the file of the District Judge of Pudukkottai and the decree dated 14.09.1984 passed in A.S.No.829 of 1979, on the file of High Court of Judicature of Madras, submitted by the petitioner, if it is otherwise in order."

3. It is seen that the Madurai Bench of this Court cited the judgment in W.P.No.9686 of 2020, dated 24.07.2020 and held that the law of limitation as prescribed under Sections 23 and 25 of the Act will not apply to a Court decree, since it is not compulsory registrable.

4. In view of the settled position of law, the order passed by the second respondent in Check Slip No.1 of 2021, dated 20.07.2021 is quashed. The petitioner is directed to re-present the preliminary judgment and decree passed in O.S.No.62 of 2014



dated 24.07.2015 and final decree passed in I.A.No.117 of 2016 in O.S.No.62 of 2014, dated 25.11.2019 on the file of the Sub Court, Sankarai before the second respondent. On receipt of the same, the second respondent is directed to register and release the same forthwith.

5. In the result, this Writ Petition is allowed with the above direction. No costs.

Sd/-
Assistant Registrar (CS-VII)

// True Copy //

Sub Assistant Registrar

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To

1.The Inspector General of Registration,
100, Santhome High Road,
Chennai - 600 028.

2.The Sub-Registrar,
Office of the Sub Registrar,
Jalakandapuram.

+1cc to Mr.R.Marudhachalamurthy, Advocate Sr.No.65739

+1cc to the Government Pleader Sr.No.66113

W.P.No.26228 of 2021

SV(CO)
RVM(31/01/2022)