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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.26427 OF 2021

Rasammal

... Petitioner

.Vs.

1. The District Registrar,
Ariyalur District.

2. The Joint Sub-Registrar-II,
Office of the Joint Sub-Registrar-II,
Ariyalur.

3. Ramachandran

... Respondents

PRAYER:-

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the second respondent to register the decree passed in A.S.No.7/2014 dated 23.12.2014 passed by the Additional Subordinate Court, Perambalur, without reference to the delay caused for tendering the decree within a time frame fixed by this Court in accordance with law.

For Petitioner : Mr.G.Ilamurugu

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader
(for R1 & R2)

ORDER

This writ petition is filed to issue a Writ of Mandamus to direct the second respondent to register the decree passed in A.S.No.7/2014 dated 23.12.2014 passed by the Additional Subordinate Court, Perambalur, without reference to the delay



caused for tendering the decree within a time frame fixed that may be by this Court in accordance with law.

2. The petitioner and the third respondent's mother are the daughters of one Thaiyamuthu, who had succeeded to a larger extent of properties and he died leaving behind his legal heirs. After his demise, the petitioner approached her sister to effect partition of the properties that belonged to her father and requested to allot $\frac{1}{2}$ of her share in the properties to the petitioner. Thereafter, the petitioner filed a suit in O.S.No.535 of 2007 on the file of the District Munsif Court, Perambalur for partition, which was partly decreed by judgment and decree dated 17.07.2013. Aggrieved by the same, the petitioner preferred First Appeal in A.S.No.7 of 2014 on the file of the Additional Subordinate Court, Perambalur and the same was allowed by the judgment and decree dated 23.12.2014. Accordingly, the petitioner was allotted $\frac{1}{2}$ share over the suit schedule properties. As against the said judgment and decree, the petitioner's sister filed a Second Appeal before this Court in S.A.No.938 of 2015. However, no interim order has been granted and the Second Appeal is not even admitted till today.

3. While that being so, the petitioner's sister died on 12.10.2020, leaving behind the third respondent herein to succeed to the properties of the petitioner's sister. Now, the third respondent is attempting to make encumbrance over the suit properties, pursuant to the mutation of the Revenue Records. Therefore, the petitioner presented the judgment and decree passed in Appeal Suit in A.S.No.7 of 2014 dated 23.12.2014 for registration before the second respondent. However, it was refused to be received by the second respondent for the reason that there is a delay in presentation for registration. It is well settled provision of law that the time limit stipulated under Section 23 of the Registration Act will have no application to a Court decree. Therefore, the second respondent cannot refuse to register any order or decree only on the ground that the same has been presented beyond the period of limitation provided under Section 23 of the said Act. Therefore, the second respondent shall entertain the certified copy of the decree that is presented by the petitioner and register the same.

4. In view of the above discussion, the petitioner is directed to re-present the certified copies of the judgment and decree passed in A.S.No.7 of 2014 dated 23.12.2014 for registration and on receipt of the same, the second respondent is directed to register and release the same forthwith, if it is otherwise in order.



5. With the above directions, this Writ Petition is allowed.
No costs.

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Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

kv

To

1. The District Registrar,
Ariyalur District.
2. The Joint Sub-Registrar-II,
Office of the Joint Sub-Registrar-II,
Ariyalur.

+1cc to Mr.G.Ilamurugu, Advocate, S.R.No.66064
+1cc to the Government Pleader, S.R.No.67032

W.P.NO.26427 OF 2021

RSV(CO)
PBS/30/12/2021