



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2021

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.26738 of 2021

M.Kulandaivel

... Petitioner

Vs

The Sub Registrar,
Singanallur,
Coimbatore.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the Respondent relating to Refusal No: RFL/Singanallur/9/2020 dated 05.03.2020 and to quash the same and for a consequential direction to the Respondent herein to register the decree dated 07.09.2011 in A.S.No.1121 of 2007 on the file of this Court, without insisting on the period of limitation stipulated in Section 23 of the Registration Act, 1908.

For Petitioner : Mr.Kumaresh Babu
for Mr.V.Balamurugane

For Respondent : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

This writ petition has been filed to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent relating to Refusal No: RFL/Singanallur/9/2020 dated 05.03.2020 and to quash the same and for a consequential direction to the respondent herein to register the decree dated 07.09.2011 in A.S.No.1121 of 2007 on the file of this Court, without insisting on the period of limitation stipulated in Section 23 of the Registration Act, 1908 (hereinafter referred to as the 'Act' for short).



2. The case of the petitioner is that the petitioner's father owned property comprised in S.No.45/1B ad-measuring to an extent of 10 cents, 346 sq.ft situated at Upplipalaiyam Village, Singanallur Post, Coimbatore District. He borrowed loan from one Ganesan and for security purpose, he executed Power of Attorney in favour of the said Ganesan's brother-in-law, viz., N.Shanmugasundaram (hereinafter referred to as the 'Power Agent' for short). The Power Agent collusively entered into a sale agreement dated 08.11.2003 with the said Ganesan to sell the subject property. On the strength of the same, he also filed suit in O.S.No.22 of 2004 on the file of the District Court, Coimbatore for specific performance and permanent injunction. The said suit was decreed by the judgement and decree dated 30.03.2007 and the Trial Court directed the petitioner's father to execute the sale deed in favour of the said Power Agent within a period of three months.

3. Aggrieved by the same, the petitioner's father filed appeal suit in A.S.No.1121 of 2007 before this Court. While pending the appeal suit, the petitioner's father died and the petitioner was impleaded as appellant. The said appeal suit was partly allowed by an order dated 07.09.2011 and this Court observed that the sale agreement dated 14.11.2003 is not a genuine transaction but had been forged with an earlier date, after the cancellation of the Power of Attorney on 18.11.2003. However, the petitioner was directed to repay the loan borrowed by his father with interest at the rate of 24% per annum from the date of plaint till 07.09.2011.

3.

4. Aggrieved by the same, the Power Agent filed appeal in SLP (C) No.17995 of 2012 before the Hon'ble Supreme Court of India and the same was also dismissed on 30.06.2014. After dismissal of the appeal by the Hon'ble Supreme Court of India, the petitioner presented the judgement and decree in A.S.No.1121 of 2007 dated 07.09.2011 before the respondent for registration. However, the respondent refused to register the same and issue impugned check slip for the reason that the judgement and decree presented for registration belatedly and it is barred by limitation.

5. This Court repeatedly held that the provisions of Section 17 of the Act would show that a decree or orders of civil court do not fall under Sub Section (1) of Section 17 and therefore, it is not compulsorily registerable and it falls under Clause (vi) of Sub-Section (2) of Section 17 of the Act, the



registration is optional as per Section 18(f) of the Act. Therefore, the Civil Court decree is not compulsorily registerable and the registration is optional.

6. In such circumstances, the limitation prescribed under Section 23 of the Act, would not stand attracted for presenting a decree or order of the Civil Court for registration.

7. In view of the above, the impugned order in Refusal No: RFL/Singanallur/9/2020 dated 05.03.2020 is set aside. The petitioner is directed to represent the judgement and decree in A.S.No.1121 of 2007 dated 07.09.2011 on the file of this Court for registration and on receipt of the same, the respondent is directed to register and release the same to the petitioner, within a period of twelve weeks from the date of receipt of a copy of this order.

8. With the above directions, the writ petition is allowed. No costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

dm
To

The Sub Registrar,
Singanallur,
Coimbatore.

+1cc to the Government pleader Sr.68302

W.P.No.26738 of 2021

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srg 04/01/2022