



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.06.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WEB COPY

W.P. (MD) .No.8080 of 2020

P.Paramasivan

... Petitioner

Vs.

The Sub-Registrar,
Kovilpatti,
Thoothukudi District.

... Respondent

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order in Na.Ka.No.310/2020, dated 18.05.2020 of the respondent and quash the same and consequently, direct the respondent to register the compromise decree passed in S.A.(MD).No.481/2019, dated 05.11.2019, without insisting payment of stamp duty.

For Petitioner : Mr.H.Arumugam

For Respondent : Mr.Veerakathiravan

Senior Government Counsel
assisted by Mr.R.Sureshkumar
Government Advocate

ORDER

This writ petition has been filed challenging the impugned communication of the respondent, dated 18.05.2020, wherein, the respondent has directed the petitioner to pay the stamp duty and the registration charges in line with Clause 45(b) of the Schedule to the Indian Stamp Act, 1899.

2.The sum and substance of the case of the petitioner is that there was a dispute among parties, resulting in filing of a suit. This case ultimately ended up with two appeals filed before this Court in S.A.(MD).Nos.455 & 481 of 2019. The parties compromised the dispute among themselves and a compromise memo was filed before this Court. Recording the same, a decree was passed in the second appeal on 05.11.2019 in terms of the compromise. It is also seen from the judgment that leave was granted to either party who are willing to register the decree, to present the same before the respondent.

3.Pursuant to the above judgment and decree, the decree was presented for registration before the respondent. The respondent directed the petitioner to pay the stamp duty and registration charges under Clause 45(b). Aggrieved by the same, the present writ



petition has been filed before this Court.

4.The respondent has filed a counter affidavit in this case and the relevant portions in the counter affidavit are extracted hereunder.

"23.I submit that when the petitioner willing to register the copy of the Court Decree itself in the Sub Registrar Office, Kovilpatti, then registration fees only will be levied and the Decree will be registered.

24.I submit that the petitioner if willing to submit the copy of the Court Decree the Sub Registrar, Kovilpatti, will register the instrument and only Registration Fees alone will be levied and the Court Decree will be registered."

5.Heard Mr.H.Arumugam, learned counsel appearing for the petitioner and Mr.Veerakathiravan, learned Senior Government Counsel, assisted by Mr.R.Sureshkumar, learned Government Advocate, appearing for the respondent.

6.The respondent had proceeded as if a partition deed is presented for registration and ultimately, the respondent has realized the mistake and a counter affidavit has been filed, wherein, it has been categorically stated that the second appeal decree will be registered on receipt of registration fees alone and there is no requirement for paying any stamp duty.

7.In view of the specific stand taken by the respondent and in view of the fact that the document that was presented for registration was only a compromise decree passed in the second appeal, the impugned communication, dated 18.05.2020, of the respondent is hereby set aside.

8.This writ petition is allowed with a direction to the respondent to register the compromise decree passed in the second appeal, after receiving the registration charges from the petitioner. This process shall be completed within a period of one week from the date of receipt of a copy of this order. No costs.

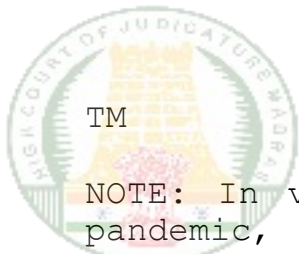
Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



TM

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Sub-Registrar,
Kovilpatti,
Thoothukudi District.

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-20492[F] dated 29/06/2021)

W.P. (MD) .No.8080 of 2020
25.06.2021

SJ(co)

TR(06.07.2021) 3P 3C