



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2021

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD)No.15553 of 2021

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Ramasamy

... Petitioner

Vs.

The Sub Registrar,
Velliyanai Sub Registrar Office,
Karur District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order issued by the respondent vide his proceedings in AA/Thi/Mu/ N 73/2021 dated 24.02.2021 and quash the same and consequently directing the respondent to register the decree granted in O.S.No.339/2007 dated 15.06.2009 by the learned Sub Court, Karur under Section 23 of the Registration Act in respect of the property situated at Tirumalainathanpatti, Velliyanai North Village, Karur District.

For Petitioner : Mr.M.Palani Raja
For Respondent : Mr.P.Subbaraj,
Counsel for State

ORDER

The petitioner challenges an order dated 24.02.2021 by which the petitioner's representation dated 12.02.2021 was rejected.

2. The petitioner claims to be the absolute owner of the property bearing Survey No.811/A3 of an extent of about 0.25 Cents at Tirumalainathanpatti, Velliyanai North Village, Karur District.

3. According to the petitioner, one Valliyammal and her husband created a forged settlement deed dated 19.08.1957 in respect of the aforesaid property. Therefore, the petitioner filed O.S.No.339 of 2007 before the Sub Court, Karur seeking a permanent injunction against the above mentioned persons. Such suit was decreed on 15.06.2009 and the appeal suit filed by the defendant came to be dismissed by judgment and decree dated 05.03.2010.

4. In the above circumstances, the petitioner submitted the representation dated 12.02.2021, whereby the petitioner requested that the encumbrance in favour of Valliyammal be removed and also that the decree in O.S.No.339 of 2007 as also the decree in A.S.No.52 of 2009 be registered. Such request was rejected by the



impugned order. The present Writ Petition challenges the said order.

5. Mr.P.Subbaraj, learned counsel for the State, accepts notice on behalf of the sole respondent. He submits that the registration authorities cannot act on a unilateral request for deletion of an entry in the Encumbrance Certificate. However, he states that the second aspect relating to the request for registration of the Court decrees has not been addressed in the impugned order.

6. Upon perusal of the impugned order, it is evident that the respondent has only addressed one aspect of the petitioner's request, i.e., the request for deletion of the entry in the Encumbrance Certificate. As regards such aspect, the registration authorities have indicated that a unilateral request for the deletion of an entry in the Encumbrance Certificate cannot be entertained and that the registration authorities do not have such authority. However, the second aspect of the petitioner's request has not been adverted to at all. In this regard, it may be mentioned that this Court has held in several cases that the time limit prescribed in Section 23 of the Registration Act, 1908 does not apply to the registration of Court decrees. Such aspect may also have to be taken into consideration when the matter is remitted to the respondent.

7. For the reasons set out above, the matter is remitted to the respondent for reconsideration with regard to the registration of the decrees mentioned above. The petitioner is directed to resubmit the relevant documents to the respondent within a period of two (2) weeks from the date of receipt of a copy of this order. Upon receipt thereof, the respondent is directed to reexamine the petitioner's request for registration of the Court decrees and pass a reasoned order in respect thereof within a period of thirty (30) days from the date of receipt of the resubmitted document and also taking into account the observations contained in this order.

8. Accordingly, W.P.(MD).No.15553 of 2021 is disposed of on these terms without any order as to costs.

Sd/-

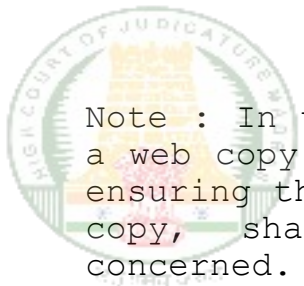
Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg/LM



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.

WEB COPY

To
The Sub Registrar,
Velliyanai Sub Registrar Office,
Karur District.

+1 CC to M/s.M.PALANI RAJA, Advocate (SR-28030[F] dated
03/09/2021)

+1 CC to M/s.GP (SR-28055[F] dated 03/09/2021)

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RD(14.09.2021) 3P 4C