



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2022

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.582 of 2022
and W.M.P.No.634 of 2022

Dhanalakshmi

... Petitioner

-Vs-

The Sub Registrar,
Sulur Sub Registrar Office,
Coimbatore Registration District.

... Respondent

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order made in Check Slip dated 26.10.2021 in RFL/Sulur/25/2021 by the respondent quash the same and consequently direct the respondent to register the judgment and decree dated 17.03.2021 made in A.S.No.18 of 2017 passed by the learned II Additional District Judge, Tiruppur.

For Petitioner : Mr.R.Prabakar

For Respondent : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

This Writ Petition has been filed for the issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order made in Check Slip dated 26.10.2021 in RFL/Sulur/25/2021 by the respondent quash the same and consequently direct the respondent to register the judgment and decree dated 17.03.2021 made in A.S.No.18 of 2017 passed by the learned II Additional District Judge, Tiruppur.

2. Heard Mr.R.Prabakar, learned counsel appearing for the petitioner and Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondent.



3. The petitioner and her sister filed a suit for partition in O.S.No.467 of 2007 on the file of the Principal Subordinate Court, Tiruppur. The said suit was dismissed by the Judgment and Decree, dated 24.09.2016. Aggrieved by the same, they filed an appeal suit in A.S.No.18 of 2017 on the file of the learned II Additional District Judge, Tiruppur and the same was allowed. Accordingly, the petitioner and her sister were allotted the properties. As against the Judgment and Decree passed in appeal suit, no appeal has been filed by the counter parties and the said Judgment and Decree had attained finality. The petitioner made a certified copy application and obtained the same. Thereafter, the petitioner presented the Judgment and Decree passed in A.S.No.18 of 2017 for registration before the respondent. However, it was rejected for the reason that it was presented belatedly i.e beyond 120 days.

4. The law of limitation prescribed under Section 23 of the Registration Act will not apply when a Court decree is presented for registration, as it is a permanent record of the Court and to register the same, no limitation is prescribed. The limitation prescribed under Section 23 of the Registration Act should be read with in consonance with Section 25 of the Registration Act and that since they were only directory in nature, the check slip issued by the respondent herein is ban in law. Further, Section 17 of the Registration Act enumerates the documents, which require registration and the effect of failure to observe it is stated in Section 47 and that under Section 18(c) of the Act, the registration of a Court decree is purely optional and that being so, the consequences contemplated by Section 49 of the Act would flow from not having recourse to Section 77 of the Act.

5. A party cannot be compelled to get document registered if such an obligation is not cast by the provisions of the Registration Act, that the necessity for registration arises only in regard to document set out in Section 17, that no penalty can attach to the omission to get a document registered when it is excepted by Section 17 and that therefore, the Section 77 can have relation only to instrument falling within the ambit of Section 17.

6. In view of the legal position settled in several precedents, the respondent cannot refuse to register the Court's decree on the ground of limitation. Accordingly, the impugned order made in Check Slip, dated 26.10.2021 in RFL/Sulur/25/2021 by the respondent is hereby quashed.

7. The petitioner is directed to re-present the Judgment and Decree passed in A.S.No.18 of 2017, by the learned II Additional District Judge, Tiruppur, for registration and on receipt of the same, the respondent is directed to register and release the same forthwith.



8. In view of the above, this writ petition stands allowed. Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

WEB COPY

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

mn

To

The Sub Registrar,
Sulur Sub Registrar Office,
Coimbatore Registration District.

+1cc to Mr.R.Prabakar, Advocate SR. No.3334

+1cc to Government Pleader SR. No.3996

W.P.No.582 of 2022
and W.M.P.No.634 of 2022

KSM (CO)
PR (10/02/2022)