



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2022

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.829 of 2022

Rangasamy

...Petitioner

Vs

1.The District Registrar,
Coimbatore,
Coimbatore District.

2.The Sub-Registrar,
Sulur,
Coimbatore District.

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of order dated 10.12.2021 in Refusal Number: RFL/Sulur/32/2021 on the file of the second respondent and quash the same and consequently direct the second respondent to register and release the final decree dated 23.06.2020 passed in O.S.No.739 of 2007 on the file of the Principal District Judge at Coimbatore to the petitioner within stipulated time as fixed by this Court.

For Petitioner : Mr.K.Myilsamy

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

This writ petition is filed to issue a Writ of Certiorarified Mandamus to call for the records of order dated 10.12.2021 in Refusal Number: RFL/Sulur/32/2021 on the file of the second respondent and quash the same and consequently direct the second respondent to register and release the final decree dated 23.06.2020 passed in O.S.No.739 of 2007 on the file of the Principal District Judge at Coimbatore to the petitioner within stipulated time as fixed by this Court.

2. The properties described in the plaint in O.S.No.739 of 2007 on the file of the Principal District Judge, Coimbatore are



the family properties of the petitioner. The said suit is filed by the petitioner for partition as against his co-sharers. The same had been decreed by passing preliminary decree, by judgement and decree dated 04.06.2008. Thereafter, in the year 2019, the petitioner filed an application for passing final decree in I.A.No.221 of 2019 on the file of the Principal District Judge, Coimbatore, as per the shares allotted in the preliminary decree. Detailed plan and report were filed before the Trial Court for passing final decree. Accordingly, the properties, were allotted by metes and bounds to the share of the petitioner by final decree dated 23.06.2020 passed in the said suit. As against the same, no appeal was preferred by any of the parties and the final decree had attained finality and binding on all the parties. Thereafter, the petitioner applied for certified copy of the same on 26.03.2021 and obtained on 21.04.2021. Hence, the said final decree was presented for registration before the second respondent on 10.12.2021 along with requisite stamp duty and registration charges. However, the second respondent refused to register the same for the reason that it was presented belatedly and barred by limitation.

3. 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.

4. 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.

5. In view of the above discussion, the impugned order dated 10.12.2021 is quashed. The petitioner is directed to re-present the final decree passed in O.S.No.739 of 2007, dated 23.06.2020 for registration along with registration fees on the value of



the suit. On receipt of the same, the second respondent is directed to register and release the same forthwith, if it is otherwise in order.

6. Insofar as the registration fee is concerned, the law is no longer res-integra as settled by this Court and the registration fees should be levied only on the total value of the suit and not on the value of the property. Therefore, the second respondent cannot insist for payment of the registration fees based on the value of the property.

7. In the result, this Writ Petition is allowed. No costs.

Sd/-
Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

kv

To

1.The District Registrar,
Coimbatore,
Coimbatore District.

2.The Sub-Registrar,
Sulur,
Coimbatore District.

+1cc to Mr.K.Myilsamy, Advocate Sr.No.4435

+1cc to the Government Pleader Sr.No.4696

W.P.No.829 of 2022

SS(CO)
RVM(01/03/2022)