



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2022

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.1084 of 2022

Rathinam

... Petitioner

-Vs-

The Sub Registrar,
Bhavani SRO,
Erode 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 31.12.2021 in RFL/Bhavani/50/2021 by the respondent quash the same and consequently direct the respondent to register the judgment and decrees dated 05.01.2008, 22.10.2009 made in O.S.No.198 of 2007 passed by the Principal District Munsif Court, Bhavani.

For Petitioner : Mr.N.S.Deepak

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 31.12.2021 in RFL/Bhavani/50/2021 by the respondent quash the same and consequently direct the respondent to register the judgment and decrees dated 05.01.2008, 22.10.2009 made in O.S.No.198 of 2007 passed by the Principal District Munsif Court, Bhavani.

2. Heard Mr.N.S.Deepak, learned counsel appearing for the petitioner and Mr.Yogesh Kannadasan, learned Special Government



Pleader appearing for the respondent.

3. The petitioner's father purchased the subject property and he died intestate on 16.11.2006 leaving behind the petitioner and other family members as his legal heirs. Since, the petitioner was denied his share of his father's property he filed a suit in O.S.No.198 of 2007 for partition. The said suit was decreed as prayed for by the preliminary Judgment and Decree, dated 05.01.2008. The petitioner also filed an application for final decree in I.A.No.932 of 2008 in O.S.No.198 of 2007. Accordingly, the suit property was divided by metes and bounds and final decree was passed on 22.10.2009.

4. However, due to the petitioner's ignorance, the said decree was not presented for registration immediately after obtaining the certified copy of the final decree. The petitioner after obtaining the certified copy of the Judgment and Decrees, presented for registration only on 31.12.2021. However, the respondent refused to register the same by the impugned check slip, dated 31.12.2021 for the reason that the Judgment and Decrees were presented for registration after a period of four months from the date of the decrees.

5. It is a well settled law that the proviso under Section 23 of the Registration Act is only directory in nature and not mandatory in respect of the decree passed by the Court. The decree passed by the Civil Court is not compulsorily registrable document. Under Section 17(1) of the Registration Act deals with the compulsory registration of documents. Section 17(2) of the Registration Act is an exception to Section 17(1) of the Registration Act. Section 18 of the Registration Act, refers to documents for which registration is optional. Therefore, the decree or an order passed by the Civil Court will not fall under Section 17(1) of the Registration Act.

6. Therefore, a party cannot be compelled to get the document registered when there is no obligation cast upon the party to register the same. Thus, the limitation prescribed for presentation of document under Sections 23 and 25 of the Registration Act, is not applicable to Judgment and Decree presented for registration.

7. In view of the above, the impugned check slip, dated 31.12.2021 cannot be sustained as against the petitioner and it is liable to be set aside. Accordingly, the impugned check slip, dated 31.12.2021, in RFL/Bhavani/50/2021 by the respondent is hereby quashed.

8. The petitioner is directed to re-present the Judgment and Decrees passed in O.S.No.198 of 2007 dated 05.01.2008 and



22.10.2009 on the file of the Principal District Munsif Court, Bhavani and on receipt of the same, the respondent is directed to register and release the same forthwith.

9. In the result, this writ petition stands allowed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

The Sub Registrar,
Bhavani SRO,
Erode District.

+1cc to M/s.R.Prabakar, Advocate, S.R.No.4637

+1cc to the Government Pleader, S.R.No.5638

W.P.No.1084 of 2022

KSM(CO)
SU(11/02/2022)