

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

WP.NO.7853 OF 2022

Krishnaveni

...Petitioner

Vs

The Sub Registrar,
Avalpoondurai Sub Registrar Office,
Erode District.

...Respondent

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the refusal check slip in refusal number RFL/Avalpoondurai/29/2022 dated 15.03.2022 and to quash the same as illegal and incompetent and consequently direct the respondent to register the decree dated 20.09.2021 passed in O.S.No.237 of 2018 on the file of the II Additional District and Sessions Judge, Erode.

For Petitioner : Mr.M.Guruprasad

For Respondent : Mr.Yogesh Kannadasan, SGP

ORDER

This writ petition is filed challenging the refusal check slip in RFL/Avalpoondurai/29/2022 dated 15.03.2022 on the file of the respondent and consequently, direct the respondent to register the decree dated 20.09.2021 passed in O.S.No.237 of 2018 on the file of the II Additional District and Sessions Judge, Erode.

2. The case of the petitioner is that he filed a suit in O.S.No.237 of 2018 for partition against his family members on the file of the II Additional District and Sessions Judge, Erode. Pending suit, the petitioner and his family members had arrived at a compromise, for which the suit has got withdrawn by the petitioner on 20.09.2021. Subsequently on 28.12.2021, the petitioner filed an application for issuance of certified copy of the decree and judgment, which was made available on 15.02.2022 and the same was placed for registration on 15.03.2022 before the respondent. However, the respondent is

refused to register the same passing impugned order stating that after exceeding the prescribed time limit of 120 days from the date of the judgment and decree, as per the Registration Act delay charges of 25% within a week from the date of the judgment and decree, and 50% within a month from the date of the judgment and decree has to be paid, which was refused to remit by the Petitioner. The petitioner has placed the judgment and decree for registration after a period of four months. As per Section 23 of the Registration Act, the petitioner has to pay the penalty charges for the delay in presenting the document for registration. In view of that, the impugned order was passed, which is challenged in the present writ petition.

3. The learned counsel for the petitioner submitted that the question of limitation under Section 23 of the Registration Act does not apply for the registration of the Civil Court decree. However, the petitioner is ready to pay the necessary stamp duty as well as the penalty charges in terms of the provisions of the Registration Act. Therefore, the learned counsel prays to quash the impugned order allowing this writ petition.

4. The learned Special Government Pleader submitted that as per the Tamil Nadu Registration Manual, if the document is presented for registration with a delay, the presenter has to pay the penalty charges. In this case, the petitioner has presented the decree with a delay of four months. The petitioner has refused to pay the penalty charges and hence, the respondent has rightly passed the impugned order. Therefore, this Court may dismiss the writ petition.

5. Heard both sides and perused the materials available on record.

6. The facts of the case are not in dispute. Admittedly, the petitioner filed a suit before the trial Court for partition against his family members. During pendency of the suit, a compromise has been arrived at between the parties. Hence, the petitioner filed a compromise petition in IA. No.6 of 2021 and the said suit was withdrawn on 20.09.2021. The petitioner filed a copy application on 28.12.2021 and the certified copy of the decree was issued to the petitioner on 15.02.2022. But the petitioner has presented the said decree before the respondent only on 15.03.2022. Admittedly, there was a delay in presenting the document for registration.

7. The learned Special Government Pleader fairly submitted that if there is a delay in presenting the document for registration, the presenter has to pay the necessary stamp duty as well as the penalty charges as per the Registration Act.

8. For better understanding, Section 25 of the Registration Act is as follows:

'Provision where delay in presentation is unavoidable (1) if, owing to urgent necessity or unavoidable accident, any document executed, or copy of a decree or order made, in India is not presented for registration till after the expiration of the time herein before prescribed in that behalf, the Registrar, in cases where the delay in presentation does not exceed four months, may direct that on payment of a fine not exceeding ten times the amount of the proper registration fee, such document shall be accepted for registration.'

On perusal of the aforesaid provision, the respondent has rightly passed the impugned order and this Court does not find any infirmity in the impugned order passed and hence, cannot interfere with the same.

9. Accordingly, this Writ Petition is dismissed. No costs. However, the respondent is directed to entertain the document on remittance of necessary stamp duty and penalty charges in terms of the provisions of the Registration Act.

Sd/-
Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

Rli

To

The Sub Registrar,
Avalpoondurai Sub Registrar Office,
Erode District.

+1cc to Mr.M.Guruprasad, Advocate, Sr.No.24736

+1cc to the Government Pleader, Sr.No.24548

W.P.No.7853 of 2022

JP-II(CO)
RVM(27/05/2022)