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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2022

CORAM :

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.8210 of 2022
and
W.M.P.No.8212 of 2022

D.Jayakumar

... Petitioner

Vs.

The State of Tamil Nadu represented by
1. The Inspector General of Registration,
100, Santhome High Road,
Chennai-28.

2. The District Registrar,
Villupuram District,
Collectorate Buildings,
Villupuram-605602.

3. The Joint Sub-Registrar-I,
O/o Sub-Registrar-I,
Villupuram-605602.

4. D.Vasanth Kumar

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, calling for the records pertaining to the impugned Document No.3595 of 2021 dated 16.11.2021 on the file of the 3rd respondent and quash the same and issue appropriate direction for the 1st respondent to accord sanction for the petitioner to prosecute the 3rd respondent on the basis of petitioner's petition on 06.02.2022.

For Petitioner : Mr.V.Rajendran

For Respondents : Mr.P.Sathish

Additional Government Pleader

O R D E R

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus, to call for the records pertaining to the impugned Document No.3595 of 2021 dated 16.11.2021 on the file



of the 3rd respondent and quash the same and issue appropriate direction for the 1st respondent to accord sanction for the petitioner to prosecute the 3rd respondent on the basis of petitioner's petition on 06.02.2022.

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2. The learned Additional Government Pleader takes notice for the official respondent. In view of the limited relief sought for in this petition and on the consent of the learned counsel appearing on either side, this petition is taken up for final disposal.

3. The case of the petitioner is that the petitioner filed a suit in O.S.No.199 of 2012, for partition as against his father and other Co-Sharers in respect of HUF properties, on 10.08.2012. The said suit was dismissed by the Additional District Court (FTC), on the basis of the alleged will and a Kurchit, on 30.09.2021. Without verifying the finality of the decree, the 3rd respondent registered the decree as Doc.No.3595 of 2021, on 16.11.2021. Challenging the said document, the present Writ Petition is filed with the aforesaid prayer.

4. The learned counsel for the petitioner submitted that though the 3rd respondent is a party in the suit he was not represented by any counsel before this Court and the certified copy of the decree was made ready on 22.11.2021. Whereas the decree was registered on 16.11.2021, prior to the decree made ready. He further submitted that the property mentioned in the document is not co-related to the property mentioned in the suit, however erroneously registering the decree is not sustainable.

5. Per Contra, the learned Additional Government Pleader appearing on behalf of the respondents submitted that as per Section 23 of the Registration Act, any decree presented before the respondent officials has to be registered in terms of the decree passed by the trial Court, after collecting necessary charges and stamp duties. If the petitioner is aggrieved, he has to challenge the decree before the appellate Court. Without challenging the decree before the appellate Court, filing this writ petition is not sustainable. He further submitted that the registration officials has bound to act as per the Registration Act and no provision is available to refuse to register the decree.

6. Admittedly, the petitioner has filed a suit in O.S.No.199 of 2012, for partition and the said suit was dismissed on 16.11.2021 and thereafter the said decree was registered in terms of Section 23 of the Registration Act. Hence, there is no violation of rules by the 3rd respondent. Hence, the prayer sought for in this petition cannot be granted.



7. With the above observation, this Writ petition is dismissed. No costs. However, liberty is granted to the petitioner to work his remedy in the manner known to law. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

Psa

To

1. The Inspector General of Registration,
100, Santhome High Road,
Chennai-28.
2. The District Registrar,
Villupuram District,
Collectorate Buildings,
Villupuram-605602.
3. The Joint Sub-Registrar-I,
O/o Sub-Registrar-I,
Villupuram-605602.

+lcc to Mr.V.Rajendran, Advocate, S.R.No.23289
+lcc to the Government Pleader, S.R.No.23842

W.P. No.8210 of 2022

GP[co]
NSK 21/04/2022