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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2022

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.28085 of 2021

and

W.M.P.No.29651 of 2021

1. Kalamani

2. S.Arulmurugan

3. S.Karthikeyan

...Petitioners

Vs

The Sub Registrar,
Sub Registrar Office,
Annur,
Coimbatore.

...Respondent

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the record of the respondent under Refusal No.RFL/ANNUR/348/2020 dated 16.12.2020 and direct the respondent to register the decree dated 04.10.2019 made in O.S.No.1204/2014 on the file of Principal Subordinate Court, Coimbatore.

For Petitioners : Mr.S.Mukunth

For Respondent : Mr.Yogesh Kannadasan
Special Government Pleader.

ORDER

This writ petition has been filed for issuance of Writ of Certiorarified Mandamus, to call for the record of the respondent under Refusal No.RFL/ANNUR/348/2020 dated 16.12.2020 and direct the respondent to register the decree dated 04.10.2019 made in O.S.No.1204/2014 on the file of Principal Subordinate Court, Coimbatore.

2. Heard, Mr.S.Mukunth, learned counsel appearing for the petitioners and Mr.Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondent.

3. The case of the petitioner is that the petitioner and her husband jointly purchased the property, comprised in



survey No.582/1A to an extent of 6 cents in House Site No.A9 situated at Karegoundenpalayam Village, Annur Taluk, by a registered sale deed dated 11.09.1991. Her husband died on 19.09.2007, leaving behind him, the petitioner and her two sons to succeed his half share in the property. Due to financial crunch, the petitioners have faced so many problems and the second petitioner borrowed a sum of Rs.2,50,000/- from one Rangasamy, who is a money lender. On his compulsion, a sale agreement, as security for due repayment of loan, was executed in respect of the subject property on 20.12.2013. The said Rangasamy filed a suit for specific performance in O.S.No.1204 of 2014 on the file of the Principal Subordinate Court, Coimbatore. On the date of hearing, the petitioners were absent and he obtained an ex-parte decree on 20.04.2015.

4. The petitioners came to know about the suit only on receipt of the notice in E.P.No.362 of 2015. Thereafter, the petitioners filed a petition to set aside the ex-parte decree in I.A.No.325 of 2017. However, the said Rangasamy proceeded with the Execution Petition and obtained sale deed registered through Court on 31.07.2017 and in turn he sold out the property in favour of four persons by a registered sale deed dated 29.11.2017. Thereafter, the set aside petition in I.A.No.325 of 2017 was allowed on 09.07.2019 and ex-parte decree dated 20.04.2015 was set aside. Subsequently, the main suit itself was dismissed for default on 04.10.2019 and the Judgment and Decree passed in I.A.No.325 of 2017 were placed before the respondent for registration. However, the respondent refused to register the same for the reason that there was a delay in presentation of the decree and as such, they cannot be registered.

5. The provision under Section 23 of the Registration Act has no application for registering a Court decree. This Court repeatedly held that under Section 23 of the Registration Act cannot be applied for registration of Court decree. The limitation prescribed for presenting a document does not apply to a decree, as it is a permanent record of the Court and to register the same, no limitation is prescribed. The time limit stipulated under Section 23 of the Registration Act will have no application to a Court decree.

6. In view of the above, the impugned Refusal No.RFL/ANNUR/348/2020 dated 16.12.2020 issued by the respondent is unsustainable in law and it is liable to be set aside, accordingly, it is set aside. The petitioner is directed to re-present the Judgment and Decree dated 04.10.2019 in O.S.No.1204



of 2014 on the file of the Principal Subordinate Court, Coimbatore, for registration. On receipt of the same, the respondent is directed to register and release the same, if it is otherwise in order.

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7. In the result, the writ petition stands allowed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Lpp
To

The Sub Registrar,
Sub Registrar Office,
Annur,
Coimbatore.

+1 CC to M/s. Sarvabhuman Associates sr 410
+1 CC to The Government Pleader sr 1095

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MT(CO)
SP(22/02/2022)