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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.28300 of 2021

Thulasimani

...Petitioner

-Vs-

The Sub Registrar,
Office of Sub Registrar,
Moolanur,
Tiruppur 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 of order of refusal check slip in RFL/Moolanur/ 33/2021 dated 08.12.2021 passed by the respondent herein and quash the same and consequently direct the respondent to register the compromise decree dated 28.11.2012 made in O.S.No.252 of 2010 on the file of District Munsif Court, Dharapuram presented by the petitioner.

For Petitioner : Mr.N.Ponraj

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 of order of refusal check slip in RFL/Moolanur/ 33/2021 dated 08.12.2021 passed by the respondent herein and quash the same and consequently direct the respondent to register the compromise decree dated 28.11.2012 made in O.S.No.252 of 2010 on the file of District Munsif Court, Dharapuram presented by the petitioner.

2. Heard Mr.N.Ponraj, learned counsel appearing for the petitioner and Mr.Yogesh Kannadasan, learned Special Government Pleader, appearing for the respondent.

3. The petitioner filed a suit for partition in O.S.No.252 of 2010 on the file of the District Munsif Court, Dharapuram, against her husband. While pending the suit they entered into a compromise memo and it was filed in I.A.No.1299 of 2013.



Based on the compromise memo, a compromise decree was passed on 28.11.2012 in O.S.No.252 of 2010. Thereafter, the petitioner decided to register the same and presented the same for registration on 07.12.2021.

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4. However, the respondent refused to register the same by the impugned check slip for the reason that it was presented for registration after six years from the date of the decree and the same could not be registered as per Section 23 of the Registration Act which prohibits the registration of documents beyond the period of eight months. This Court repeatedly held that Section 23 of the Registration Act and the Rules are not applicable for registering the Court decree as the registration of Court decree does not fall within the ambit of Section 17 of the Registration Act which speaks about the documents to be registered compulsorily. Whereas, the registration of Court decree is an optional and not a compulsory one. Therefore, the delay in question as contemplated under Section 23 of the Registration Act cannot be applied for the Court decree.

5. In view of the above, the refusal check slip in RFL/Moolanur/33/2021 dated 08.12.2021 passed by the respondent is hereby quashed. The petitioner is directed to re-present the Judgment and Decree, passed in O.S.No.252 of 2010, dated 28.11.2012 for registration and on receipt of the same, the respondent is directed to register and release the same forthwith if it is otherwise in order.

6. With the above directions, this writ petition stands allowed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

mn/sha

To

1.The District Munsif, Dharapuram.

2.The Sub Registrar,
Office of Sub Registrar,
Moolanur,
Tiruppur District.



+1cc to Mr.N.Ponraj, Advocate, S.R.No.313
+1cc to the Government Pleader, S.R.No.1086

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GPL(CO)
KKV/01/02/2022