



WEB COPY



W.P. No. 18792 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2022

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

**W.P. No. 18792 of 2017
and WMP.No.20319 of 2017**

K.Murugesan

... Petitioner

-VS-

1. The District Registrar,
Office of the District Registrar of Coimbatore,
Coimbatore.

2. The Sub-Registrar
Singanallur Sub Registrar Office,
Coimbatore.
Respondents

...

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the order dated 05.07.2017 passed by the second respondent and quash the same and consequently, direct the second respondent to register the Preliminary decree dated 05.01.2017 passed in O.S.no.1221 of 2016 by the II Subordinate Judge, Coimbatore on payment of necessary registration fee.

For Petitioner : Mrs. Revathi Ramachandran

For Respondents : Mr. C.Kathiravan
Spl. Government Pleader



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ORDER

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This petition has been filed seeking to quash the order dated 05.07.2017 passed by the second respondent and consequently, direct the second respondent to register the Preliminary decree dated 05.01.2017 passed in O.S.No.1221 of 2016 by the learned II Subordinate Judge, Coimbatore on payment of necessary registration fee.

2. It is the case of the petitioner that one Theivanaiammal and her sister Valliammal are the joint owners of the properties in S.No.158, 160 and 161 situated at Irugur Village, Sulur Taluk Sub Registration District of Singanallur (hereinafter referred to as subject property). During the year 2014, there was a family arrangement between the petitioner and his mother viz., Theivanaiammal, she had allotted her share in favour of the petitioner. While so, the said Valliammal was trying to sell the subject property by suppressing the petitioner's share. Therefore, the petitioner filed a suit in O.S.No.1221 of 2016 before the Sub Court, Coimbatore for partition. By an ex-parte decree dated 05.01.2017, the learned Sub Judge, Coimbatore had granted preliminary decree in favour of the petitioner and also granted permanent injunction restraining the said Valliammal from alienating or encumbering the suit property. In such



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circumstances, the petitioner had approached the second respondent to register the preliminary decree. However, the second respondent refused to register the preliminary decree and passed the impugned order dated 05.07.2017 stating that as per the Registration Act, they can stop the registration activities in respect of the subject matter only if they receive the injunction order directly from the Court. Challenging the said order, the present writ petition has been filed.

3. Learned counsel for the petitioner submitted that the preliminary decree granted by the respective Court in favour of the petitioner was placed before the respondents and however, the respondent has not registered the decree in the encumbrance certificate. Without giving any opportunity of hearing to the petitioner, the impugned order has been passed and the same is liable to be set aside.

4. Heard the learned counsel on either side and perused the materials available on record.

5. Considering the facts and circumstances of the case, when the preliminary decree dated 05.01.2017 passed in O.S.No.1221 of 2016 by the II



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Subordinate Judge, Coimbatore, was presented for registration, the same was refused to register on a different ground, which is impermissible. Whenever a decree is presented for registration, the Sub Registrar has to entertain the decree in terms of Section 23 of the Registration Act and pass appropriate orders. Unless the decree is modified or cancelled by the appropriate authority, the same cannot be rejected.

6. In view of the above, the impugned order is set aside and the matter is remanded back to the second respondent for passing fresh orders invoking Section 23 of the Registration Act. Accordingly, the writ petition is disposed of. No costs. Connected miscellaneous petition is also closed.

07.11.2022

Rli

Index: Yes/No

To

1. The District Registrar,
Office of the District Registrar of Coimbatore,
Coimbatore.

2. The Sub-Registrar
Singanallur Sub Registrar Office,
Coimbatore.



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M.DHANDAPANI.,J.

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W.P. No. 23464 of 2017

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