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W.P.No.4714 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.4714 of 2023

P.Mahalakshmi Petitioner

-Vs-

1.The District Registrar
Salem District, Salem.

2.The Sub-Registrar
Sub-Registrar Office
Ayothiyapattinam
Salem District.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent herein pertaining to his proceeding in Refusal No RFL / Ayothiyapattinam / 1 / 2023 dated 30.01.2023 and quash the same and further direct the 2nd respondent herein to register decree dated 17.11.2002 passed in OS No 58 of 2017 by learned District Munisif Cum Judicial Magistrate Vazhapadi and return the same to the petitioner.

For Petitioner : Mr.M.Selvam
for Mr.A.M.Amutha Ganessh

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader



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ORDER

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The prayer sought for herein is for a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent herein pertaining to his proceeding in Refusal No RFL / Ayothiyapattinam / 1 / 2023 dated 30.01.2023 and quash the same and further direct the 2nd respondent herein to register decree dated 17.11.2002 passed in OS No 58 of 2017 by learned District Munisif Cum Judicial Magistrate Vazhapadi and return the same to the petitioner.

2. The petitioner presented a copy of the decree and judgment made in O.S.No.58 of 2017 dated 17.11.2022 by the District Magistrate-cum-Judicial Munsif Court, Vazhappadi Taluk for registration before the 2nd respondent. However, the 2nd respondent, by the impugned refusal check slip dated 30.01.2023 refused to register the said judgment and decree on the ground that previous original decree or parent document has not been filed. Challenging the same, the present writ petition has been filed.

3. Heard Mr.M.Selvam learned counsel for the petitioner and Mr.Yogesh Kannadasan learned Special Government Pleader appearing for the respondents.



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4. Learned Special Government Pleader would submit that, since the petitioner wanted to register the decree passed by the Civil Court, the 2nd respondent has to assess whether any further appeal has been preferred against the judgment and decree and if no such further appeal has been preferred, as per the guidelines issued in this regard as well as Court orders repeatedly passed by this Court, the judgment and decree passed by the Civil court has to be registered. Therefore, to that extent, the 2nd respondent would consider the plea of the petitioner and do the needful, he contended.

5. In view of the said submission made by the learned Special Government Pleader, of course correctly, this Court feels that the reason cited by the 2nd respondent through the impugned communication would not stand in the legal scrutiny. Therefore, it has to be set aside.

6. In the result, the following orders are passed in this writ petition.

- That the impugned refusal check slip dated 30.01.2023 is set aside.
- The matter is remitted back to the 2nd respondent where there shall be a direction to the 2nd respondent to take up the judgment



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and decree referred to above presented by the petitioner for registration and after verifying the fact that no appeal has been filed and interim order has been passed staying the operation of the judgment and decree, the 2nd respondent shall proceed to register the same as per law within the meaning of Section 23 of the Act by taking note of the judgments passed by this Court in this regard, where there shall not be a limitation point to be insisted upon by the 2nd respondent and the value of the suit filed at the time of the suit alone shall be taken for the purpose of calculation of Registration charges and stamp duty thereafter the registration of the judgment and decree shall be made within a period of four weeks thereafter.

7. With the above directions, this writ petition is disposed of. No costs.

20.02.2023

Index : Yes/No
Neutral Citation : Yes/No
Speaking Order / Non-speaking order
KST



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- To
- 1.The District Registrar
Salem District, Salem.
 - 2.The Sub-Registrar
Sub-Registrar Office
Ayothiyapattinam
Salem District.



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R. SURESH KUMAR, J.

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