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W.P.Nos.7350 & 7353 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.7350 & 7353 of 2023

and

W.M.P.Nos.7430 & 7433 of 2023

- | | |
|--------------------------------------|--|
| 1.S.Chithirai Sekar alias Jaganathan | ... Petitioner
in W.P.No.7350 of 2023 |
| 2.S.Srinivasan | ... Petitioner
in W.P.No.7353 of 2023 |

Vs.

- | | |
|---|--|
| 1.The Sub Registrar
(District Registrar Cadre)
T.Nagar
Chennai. | ... Respondent
in W.P.No.7350 of 2023 |
| 2.The Joint Sub Registrar-II
Saidapet
Chennai 600 015
@ Nandanam, Chennai – 600 035. | ... Respondent
in W.P.No.7353 of 2023 |

[R2 cause title amended vide order dated 05.04.2023 made
in WMP.No.10592 of 2023 in WP.No.7353 of 2023]



Common Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondent pertaining to Refusal Check Slip dated 08.02.2023 and quash the same and to direct him to register the Final Decree of Partition dated 29.09.2021 passed in C.S.No.719 of 2015 by treating it as an instrument of partition.

For Petitioners : Mr.P.Sesubalan Raja
(in 2 WPs)

For Respondents : Mr.D.Ravichander
Special Government Pleader
(in 2 WPs)

COMMON ORDER

The refusal check slip refusing the claim of the writ petitioner to register final decree of partition dated 29.09.2021 passed in C.S.No.719 of 2015 is under challenge in these writ petitions.

2. The petitioners state that they have secured a final decree in C.S.No.719 of 2015. The High Court passed a final decree dated 29.09.2021. As per the final decree Plot-B in item No.10 of the Suit property was allotted to the writ petitioner. Having obtained the final decree, the petitioners



presented the same to the respondents to register the same on 08.02.2023.

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3. The respondents have refused to receive the same on the ground that 1% of the total value of the Suit as per the the Circular No.56710 C2 2001 dated 26.10.2002. Accordingly, the impugned refusal check slip was issued on 08.02.2023. Thus, the petitioners are constrained to move these writ petitions.

4. The learned Special Government Pleader appearing on behalf of the respondents brought to the notice of this Court that in respect of the very same issue in W.P.No.19633 of 2022 was filed to register the final decree passed in C.S.No.314 of 2019 dated 19.08.2021. This Court has elaborately considered the issues with reference to the recovery of 1% of the suit value for the purpose of registering the document and the relevant portion of the order is extracted here under:

“27. Further, as stated above, registration charge is unconnected with the stamp duty. In respect of a court decree, more particularly on a compromise, while stamp duty ad valorem is not chargeable, however, registration charges as



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provided for u/s 78 of the Registration Act is chargeable on the total value of the suit, as the document, which is sought to be registered, is only a certified copy of the decree and is not a partition deed as provided for Article 1 (f) of the Table of Fees appended to Section 78 of the Registration Act.

28. Such being the case, the stand of the petitioner that registration charges is chargeable only on the basis of Article 45 (c) of the Stamp Act is wholly a misconception of the said legal provision vis-a-vis Section 78 of the Registration Act, as the document, which is sought to be registered is not a partition deed, but is a court decree and, therefore, the registration charges would be on the basis of the value of the suit and would be chargeable as per Section 78 of the Registration Act.

29. For the reasons aforesaid, the writ petition fails and the same is dismissed. The respondent is directed to charge registration charges on the value of the suit for the purpose of registering the court decree as per Section 78 of the Registration Act. There shall be no order as to costs.”



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5. In view of the facts and circumstances, the petitioners, if at all chosen to register the final decree, they have to pay the stamp duty as demanded . However, the registering authority has rightly refused to proceed with the registration in consonance with the provisions of the Act and there is no infirmity.

6. Accordingly, these Writ Petitions stand dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

12.06.2023

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes

To

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(District Registrar Cadre)
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S.M.SUBRAMANIAM, J.

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