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W.P.No.31136 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2023

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THE HON'BLE MR. JUSTICE P.VELMURUGAN

W.P.No.31136 of 2023

MRS. RAJAMANI

... Petitioner

Vs.

1. THE DISTRICT REGISTRAR
(ADMINISTRATIVE), SYRIAN CHURCH ROAD,
COIMBATORE 641 018.

2. THE SUB REGISTRAR
ANNUR TALUK, COIMBATORE DISTRICT 641 653.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the refusal check slip No. RFL/ Annur/ 104/ 2023 dated 05.10.2023 on the file of the 2nd respondent and quash the same and consequently direct the 2nd respondent to register the decree dated 14.06.2023 passed in O.S.No. 3 of 2018 on the file of the IV Additional District Judge of Coimbatore.

For Petitioner : Mr.K.Sudhakar
For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader



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ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, calling for the entire records relating to the refusal check slip No. RFL/ Annur/ 104/ 2023 dated 05.10.2023 on the file of the 2nd respondent and quash the same and consequently direct the 2nd respondent to register the decree dated 14.06.2023 passed in O.S.No. 3 of 2018 on the file of the IV Additional District Judge of Coimbatore.

2. By consent of both the parties, this Writ Petition itself is taken up for final hearing at the admission stage.

3. Despite sufficient opportunity having been given, the respondents have not filed their counter affidavit. Therefore, it can be inferred that they have no valid objections.

4. It is the case of the petitioner that she filed the said suit for partition, against her brother. After conducting trial, the Court below passed the



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preliminary decree on 14.06.2023. The said preliminary decree and Judgment was presented before the 2nd respondent, for registration. However, the 2nd respondent, vide the refusal check slip No.RFL/Annur/104/2023 dated 05.10.2023, returned the said decree, stating that the preliminary decree should not be registered without complying final decree proceedings and the registration fee should be paid for entire value of the suit properties, but not the value of the Suit. Aggrieved by the said refusal, the petitioner has filed the present Writ Petition for the relief stated supra.

5. The learned counsel for the petitioner submitted that under Section 18 of the Registration Act, registration of Court decree alone is mentioned and there is no discrimination between preliminary decree and final decree. In this regard, when similar issue came up for consideration before this Court in W.P.No.12330 of 2019 vide order dated 26.04.2019, this Court in ***Kappayammal Vs.Sub Registrar Joint – I*** has held that once the right of the parties in the preliminary decree is declared by the Court and such decree is not stayed or set aside, the parties are entitled to get the decree registered, if they wish to do so. The learned counsel, in support of his submissions, produced the



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following orders of this Court also:-

(i) in the case of ***P.Ramamurthy vs. The Joint Sub Registrar No.1, Tiruppur and others*** in W.P.No.30405 of 2019 dated 13.11.2019.

(ii) in the case of ***Dhanalakshmi vs. The Sub Registrar, Rasipuram*** in W.P.No.10971 of 2023 dated 03.07.2023.

6. Heard both sides and perused the materials available on record.

7. In the preliminary decree for partition, specific boundaries, Survey number and extent of the disputed property may not be mentioned. Therefore, registering such a preliminary decree before the 2nd respondent would not serve the purpose. Though the learned counsel for the petitioner submitted that the preliminary decree can be registered, the preliminary decree will not contain the details of boundaries, Survey Number, etc., and the said preliminary decree will establish only the quantum of share in the disputed property. Therefore, the orders of this Court supra, produced by the learned counsel for the petitioner, are not applicable to this Writ Petition.



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8.In view of the above reasoning, this Writ Petition stands dismissed, granting liberty to the petitioner, to work out her remedy in the manner known to law. No costs.

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

1. THE DISTRICT REGISTRAR
(ADMINISTRATIVE) , SYRIAN CHURCH ROAD,
COIMBATORE 641 018.

2. THE SUB REGISTRAR
ANNUR TALUK, COIMBATORE DISTRICT 641 653.



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P.VELMURUGAN, J.,

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