



W.P.No.31481 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.31481 of 2023

T.Prabhakaran

...
/vs/

Petitioner

1.The Inspector General of Registration,
Office of Inspector General of Registration,
Chennai.

2.The Sub Registrar,
Sub Registrar Office,
Barur, Krishnagiri District.

3.Chinnamadhu

...

Respondents

PRAYER : The writ petition has been filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus by calling for the entire records in Refusal check slip number : RFL/Parur 56/2023 on the file of the 2nd respondent dated 19.07.2023 and the quash the same and consequently, directing the 2nd respondent to register the exparte decree passed by the Sub-Court Uthangari in O.S.No.71 of 2020 dated 09.06.2023.

For Petitioner

... Mr.M.Vignesh

For Respondent
Nos.1 & 2

... Mr.P.Gurunathan
Additional Government Pleader



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ORDER

The writ petition has been filed to issue a Writ of Certiorarified Mandamus to call for the entire records in Refusal check slip number : RFL/Parur 56/2023 on the file of the 2nd respondent dated 19.07.2023 and to quash the same and consequently, direct the 2nd respondent to register the ex-parte decree dated 09.06.2023 in O.S.No.71 of 2020 on the file of the Sub-Court Uthangari

2. The learned counsel appearing for the petitioner submitted that the writ petitioner has obtained a decree from the Subordinate Court, Uthangarai on 27.02.2022 in O.S.No.71 of 2020. When he has presented the same before the second respondent for registration, the second respondent, without issuing any notice calling for any explanation from the petitioner and conducting any enquiry, simply passed the impugned Refusal Check Slip Number: RFL/Parur 56/2023 dated 19.07.2023, referring the circular Na.Ka.No.34930 C1 2019 dated 27.02.2023 issued by the Inspector General of Registration. Therefore, the Refusal Check Slip



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has been challenged by placing reliance on the order of this Court dated 30.03.2023 in W.P.(MD).No.7057 of 2023 (P.Malarvizhi Vs.The Sub Registrar, Mathagupatti Sub Registrar Office, Sivagangai District), wherein, this Court directed the respondent therein to give an opportunity of hearing in case any person who obtained ex-parte decree, presents it for registration and they can issue notice and they can also find out the genuineness of the decree and thereafter, they can pass the order in detail. In this case, the respondents have not issued any notice and not given any opportunity for the petitioner to give any explanation. The second respondent simply issued the impugned Refusal Check Slip. Hence, the present writ petition has been filed for the relief stated supra.

3. The learned Additional Government Pleader appearing for the respondent Nos. 1 & 2 submitted that the Court passed an ex-parte decree and it should not be registered without verifying the genuineness of the said decree. Further, the Inspector General of Registration, Chennai has also issued a Circular dated 27.02.2023 in Na.Ka.No.34930 C1 2019 giving instructions for registering the documents. Therefore, the second



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respondent also acted upon the Circular and there is no reason to interfere with the impugned order.

4. I have considered the matter in the light of the submissions made by the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the first and second respondents and perused the materials available on record.

5. A perusal of the entire records, shows that admittedly, the petitioner had obtained a decree and no doubt, the said decree is an ex-parte decree and when the same was presented before the second respondent for registration, the second respondent, neither registered the decree, which is ex-parte decree, passed by the civil Court, nor issued notice to the person, who presented the document, namely the writ petitioner herein and the second respondent simply passed the impugned Refusal Check Slip only after referring the said Circular of the Inspector General of Registration. The learned counsel appearing for the petitioner pointed out that, this Court, time and again, had passed the order making it



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very clear that any decree can be registered, however, subsequent judicial pronouncement of Court shows that ex-parte decree should not be registered and some of the decisions show that the ex-parte decree can also be registered, after verifying the veracity or genuineness of the decree. In this regard, even after issuing the circular, this Court in W.P.(MD) No.7057 of 2023 dated 30.03.2023 (P.Malarvizhi Vs.The Sub Registrar, Mathagupatti Sub Registrar Office, Sivagangai District), issued certain directions and the relevant paragraph Nos.4 & 5 of the said order read as follows:

“4.But however, even in the order of the learned Single Judge, it had been very clearly stated as follows:

“In order to protect the interest of true owners, it is necessary for the registering authority to hold an enquiry in the case of presentation of a decree or order of Civil Court to ensure that the decree or order has reached finality and that the decree is not obtained by fraud or collusion”

5.Necessary enquiry must be conducted by the Sub Registrar, before coming to a conclusion



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that whether an ex parte decree can be registered or not registered. In this case, no such enquiry has been done. Therefore, the impugned order is set aside and the matter is remitted back to the respondent with a direction that the respondent must issue notice to the petitioner herein and examine the copy of the decree in O.S.No.187 of 2015 dated 10.11.2022 on the file of the Subordinaate Court, Sivagangai, and after coming to subjective satisfaction, take a decision to register / not to register the said document. But such a decision cannot be arrived at without any enquiry and without reasons for refusing to register the document. It cannot be stated as a Rule that every ex parte decree is obtained by collusion. A decree is a decree. Even an ex parte decree is executable in nature. It still has the force of law. It can still be put to execution. Therefore, merely because an ex parte decree had been granted by a Court, it should not be viewed with skewed eyes.”

6. Therefore, following the above said order of this Court dated 30.03.2023, the impugned Refusal Check Slip is hereby set aside and the



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second respondent is directed to issue notice to the writ petitioner and also the third respondent and rival claimants if any, and conduct an enquiry and after conducting the enquiry, if the second respondent is satisfied with the document along with the decree produced by the petitioner and if it is otherwise in order, he can register the same within a period of one month from the date of receipt of a copy of this order.

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

Index : Yes/No
Speaking order : Yes/No
Neutral Case Citation: Yes/No
sms

06.11.2023

To

1. The Inspector General of Registration,
Office of Inspector General of Registration,
Chennai.
2. The Sub Registrar,
Sub Registrar Office,
Barur, Krishnagiri District.



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P.VELMURUGAN,J.

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