



W.P(MD)No.7057 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.7057 of 2023

P.Malarvizhi

... Petitioner

Vs.

The Sub Registrar
Mathagupatti Sub Registrar Office,
Sivagangai District.

... Respondent

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the respondents impugned refusal check slip Refusal Number: RFL/Mathagupatti/15/2023 dated 20.03.2023 and quash the same as devoid of merits and direct the respondent to register the Decree in O.S.No. 187 of 2015 on the file of the learned Subordinate Judge of Sivagangai, dated 10.11.2022.



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For Petitioner : Mr.A.Haja Mohideen

For Respondent : Mr.C.Satheesh
Government Advocate

ORDER

The writ petition has been filed in the nature of a Certiorarified Mandamus seeking interference with a Refusal Check Slip in Refusal Number.RFL/Mathagupatti/15/2023 dated 20.03.2023 and direct the respondent/Sub Registrar, Mathagupatti Sub Registrar Office, Sivagangai District, to register the decree in O.S.No.187 of 2015 on the file of the Subordinate Court, Sivagangai, dated 10.11.2022.

2. In the affidavit filed in support of this writ petition, it had been stated that the petitioner herein had filed O.S.No.187 of 2015, relating to the property for which the document was presented for registration. After due process, the defendants therein had been set exparte and thereafter, an exparte decree came to be filed. The said exparte decree was presented for registration. It was refused placing reliance on an order of a learned Single Judge in *W.P.(MD)No.5955 of*



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2014, dated 27.07.2016, S.Kannan Vs. The Sub-Registrar, Joint No.II Sub-Registrar Office, Tirunelveli Town. Consequent to the said order of the learned Single Judge, a circular had also been issued by the Registration Department in Circular No.Na.Ka.No.34930/C1/2019, dated 27.02.2023.

3. The learned Government Advocate for the respondent stated that the document had been refused to be registered based on the order of the learned Single Judge and on the basis of the circular.

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."



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5. Necessary enquiry must be conducted by the Sub Registrar, before coming to a conclusion that whether an exparte 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 date 10.11.2022 on the file of the Subordinate Court, Sivagangai, and after coming to subjective satisfaction, take a decision to register / not to register the said document. But such 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 exparte decree is obtained by collusion. A decree is a decree. Even an exparte decree is executable in nature. It still has the force of law. It can still be put to execution. Therefore, merely because an exparte decree had been granted by a Court, it should not be viewed with skewed eyes.

6. A direction is given to the Sub Registrar, to examine the documents within a period of four weeks from the date on which it is



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re-presented in proper manner by the petitioner herein.

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7. With the above direction, the Writ Petition stands disposed of. No costs.

30.03.2023

Index :Yes/No
Internet :Yes/No
NCC : Yes / No
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To

The Sub Registrar
Mathagupatti Sub Registrar Office,
Sivagangai District.



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C.V.KARTHIKEYAN, J.

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