



WEB COPY

W.P. No.2402 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.2402 of 2024

V.Nandakumar

... Petitioner

Vs.

The Sub Registrar
Sub Registrar Office
Kundrathur
Chennai District

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the respondent relating to the impugned proceedings of the respondent namely Refusal Check Slip in Refusal Number.RFL/Kunrathur/56/2023 dated 06.11.2023 and quash the same and consequently, direct the respondent to register the judgment dated 25.03.2019 passed in O.S.No.430 of 2018 passed by the learned Sub Judge, Poonamallee, presented by the petitioner on 06.11.2023 before the respondent.

For Petitioner : Mr.V.R.Appaswamee

For Respondent : Mr.Yogesh Kannadasan
Special Government Pleader

**ORDER**

This Writ Petition is filed seeking a Writ of Certiorarified Mandamus calling for the records of the respondent relating to the impugned proceedings of the respondent namely Refusal Check Slip in Refusal Number.RFL/Kunrathur/56/2023 dated 06.11.2023 and quash the same and consequently, direct the respondent to register the judgment dated 25.03.2019 passed in O.S.No.430 of 2018 passed by the learned Sub Judge, Poonamallee, presented by the petitioner on 06.11.2023 before the respondent.

2. The contention of the petitioner is that the petitioner's great grandfather owned a property in Survey No.225/3A2, Kannapalayam Village, Poonamallee Taluk, Thiruvallur District and after his demise, the petitioner along with his brothers filed a suit in O.S.No.430 of 2018 on the file of the Sub-Court for partition since the co-parceners did not come forward to partition and obtained an ex-parte decree by judgment dated 25.03.2019. On 06.11.2023, the petitioner presented the preliminary Decree before the Sub Registrar/respondent, Kunrathur, for registration whereas, the respondent refused to register the same and issued the refusal check slip stating that Stay orders and ex-parte orders cannot be registered as per the circular issued by the Deputy Inspector General of Registration, Chennai, in



Na.Ka.No.34930/C1/2019 dated 27.02.2023. Challenging the refusal check slip, the present writ petition is filed. The learned counsel for the petitioner submitted that in many cases, this Court has already given a direction to the registering authorities that, like any other decreed, ex-parte decree has to be registered unless the said decree is subsequently set aside or over ruled or modified. Despite the same, the respondent refused to register the same.

3. Mr.Yogesh Kannadasan, learned Special Government Pleader takes notice for the respondent.

4. It is made clear that, unless the ex-parte decree is set aside by the same Court or reversed by the appellate Court, like any other decree, the ex-parte decree is also a decree which has to be registered if it is presented by the parties concerned and meets out the other requirements as per the Registration Act and that the registration cannot be rejected on the sole ground just because it is an ex-parte decree.

5. Section 17(2)(vi) of the Registration Act says, any decree or order passed by a Court has to be registered. In earlier Writ Petitions, this Court has clarified that like any other decree, ex-parte decree also has to be register.



Despite the specific provisions and also the directions of this Court, the respondent has refused to register the ex-parte decree produced by the petitioner which is a clear violation of the order of this Court. Therefore, the impugned refusal Check Slip in Refusal Number.RFL/Kunrathur/56/2023 dated 06.11.2023, is quashed. The Writ Petition is allowed with costs of Rupees One lakh. The respondent is directed to pay the said costs to the credit of the Siddha Clinic in the High Court Campus, within of period of one month from the date of receipt of a copy of this order. It is made clear that the respondent has to pay the said cost from his salary and not from the Government amount.

6. It is for the Inspector General of Registration to look into the orders of this Court passed against the orders issued by the authority concerned and that the innocent public cannot be mulcted with the inaction on the part of the Registration Department.

05.02.2024

ksa-2

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No



To

The Sub Registrar
Sub Registrar Office
Kundrathur
Chennai District

W.P. No.2402 of 20





WEB COPY

W.P. No.2402 of 2024



P.VELMURUGAN. J.

Ksa-2

W.P. No.2402 of 2024

05.02.2024