



W.P.No.2318 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.2318 of 2024

R.Parimelazhagan

... Petitioner

versus

The Sub Registrar,
Dharmapuri (West),
Office of the Sub-Registrar,
Gandhi Nagar, Dharmapuri – 636 701.

.....Respondent

Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent culminating in his impugned Refusal Check Slip bearing Refusal Number : RFL/Dharmapuri West/102/2023 dated 30.08.2023 refusing to register the Judgment and Decree dated 28.07.2023 passed in O.S.No.107 of 2015 by the learned Principal Sub Court of Dharmapuri and quash the same and consequently direct the respondent to forthwith register the said judgment and decree.



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For Petitioner : Mr.Arun Anbumani

For Respondent : Mr.R.Vigneshwaran
Government Advocate

ORDER

Mr.R.Vigneshwaran, learned Government Advocate accepts notice for the respondent. With the consent of both the parties, this Writ Petition is taken up for final disposal at the admission stage itself.

2. This Writ Petition has been filed to quash the impugned refusal check slip bearing Refusal Number : RFL/Dharmapuri West/102/2023 dated 30.08.2023 issued by the respondent, thereby refusing to register the judgment and decree dated 28.07.2023 passed in O.S.No.107 of 2015 by the Principal Sub Court of Dharmapuri, and consequently, direct the respondent to forthwith register the said judgment and decree.

3. The learned counsel for the petitioner submitted that the petitioner filed a suit in O.S.No.107 of 2015 on the file of the Principal Sub Court,



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Dharmapuri against her sister and seven others for declaration and permanent injunction. In the said suit, the petitioner's sister filed a written statement and contested the suit, but other defendants did not chose to contest the suit and they were set *ex-parte*. After full-fledged trial, the suit was decreed in favour of the petitioner vide judgment and decree dated 28.07.2023. However, the respondent fell in grave error in construing the judgment and decree as an ex-parte decree and passed the impugned refusal check slip stating that as per the Circular in ந.க.எண்.34930/சு1/2019 நாள் 27.02.2023, there is a bar in registering the ex- parte decree. The learned counsel for the petitioner further submitted that the said judgment and decree has not been set aside or reversed or modified. Under Section 17(2)(vi) of the Registration Act, 1908, the respondent is duty bound to register the document passed by the Court. Therefore, the respondent has no jurisdiction to pass the impugned refusal check slip and hence, the same is liable to be dismissed.

4. The learned Government Advocate appearing for the respondent submitted that the judgment and decree dated 28.07.2023 passed in



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O.S.No.107 of 2015 is an *ex-parte* decree. Further, the defendants in the said suit have not been impleaded as parties in the present writ petition.

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

6. Section 17(2)(vi) of the Registration Act, 1908 says any decree or order of a Court. *Ex-parte* decree or order is not exempted from the Section.

7. It is settled proposition of law that no Circular will prevail over the Act or Rules. If the decree/decreed holder gives a valid reason for presenting the decree for registration, the same has to be considered unless the said decree was subsequently set aside or over ruled or modified. Even otherwise, if any dispute arises regarding the same, the aggrieved party can work out their remedy before the civil court. The Registrar is not the competent authority to testify as to whether the *ex-parte* decree presented before him/her is a valid and executable one or not. Unless the decree presented for registration is subsequently set aside or over ruled or modified by the competent forum, it is the duty of the Registrar to register the document if



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the document is otherwise in order and within the purview of the Registration Act. Therefore, the reason given by the respondent for not registering the ex-parte decree based on the said circular is against the provisions of law and hence, the same cannot be accepted. Circular is only for internal communication and not to by-pass or over rule or modify the Act. This Court has come across several writ petitions wherein, the Registrars by citing the said circular, have refused to register the ex-parte decree. The specific portion in the Circular ந.க.எண்.34930/சு1/2019 நாள் 27.02.2023 directing the registering authority not to register the ex-parte decree, which is against Act or Rule, was already quashed by this Court in W.P.No.36564 of 2023, dated 05.01.2024. Further, this Court time and again interpreted the proviso that if any decree or order passed by the Court is presented for registration and the same is otherwise in order, the concerned authority has to register the same. Instead of registering the same, the respondent herein referred to the circular and refused registration, which is erroneous. Therefore, the impugned refusal check slip dated 30.08.2023 passed by the respondent is liable to be quashed.



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8. In view of the above, this writ petition is allowed and the impugned refusal check slip dated 30.08.2023 passed by the respondent is quashed.

The respondent is directed to register the judgment and decree dated 28.07.2023 passed in O.S.No.107 of 2015 on the file of the learned Principal Sub Court, Dharmapuri, if the same is otherwise in order. There shall be no order as to costs.

02.02.2024

Index: Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No
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To

The Sub Registrar,
Dharmapuri (West),
Office of the Sub-Registrar,
Gandhi Nagar,
Dharmapuri – 636 701.

Pg.Nos.6/7



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