



W.P.No.3498 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2024

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.3498 of 2024

and

W.M.P.No.3754 of 2024

R.Bavuna

... Petitioner

versus

1.The Inspector General of Registration,
No.100, Santhome High Road,
Pattinapakkam, Chennai – 600 028.

2.The District Registrar,
District Registrar Office,
Dharmapuri – District.

3.The Sub-Registrar,
Dharumapuri West Sub-Registration Office,
Dharumapuri – District.

..... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, the refusal order passed by the third respondent Refusal No.RFL/Dharmapuri West/115/2023, dated 25.09.2023 and to quash the same and consequently direct the third respondent to register the Ex-parte order.

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For Petitioner : Mr.R.Thamaraiselvan
For Respondents : Mr.U.Baranidharan
Additional Government Pleader

ORDER

Mr.U.Baranidharan, learned Additional Government Pleader accepts notice for the respondents. With the consent of both the parties, this writ petition is taken up for final disposal at the admission stage itself.

2. The prayer sought for in this writ petition is to quash the impugned refusal check slip in No.RFL/Dharmapuri West/115/2023, dated 25.09.2023 passed by the third respondent and consequently direct the third respondent to register the *ex-parte* order.

3.The learned counsel for the petitioner submitted that the petitioner has filed a suit in O.S.No.133 of 2014 on the file of the District and Sessions Court, Dharmapuri, against her husband for declaration and recovery of possession on behalf of her minor daughters and the same was decreed *ex-parte* 18.09.2015. Challenging the same, the petitioner's husband and her



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mother-in-law filed I.A.No.189 of 2019 in O.S.No.133 of 2014, seeking cancellation of the *ex-parte* decree and the same was dismissed on 12.11.2019. While so, the petitioner presented the said decree for registration on 25.09.2023, however, the third respondent refused to register the same 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 for registering the *ex-parte* decree. As per the provisions of the Registration Act, 1908, the respondent concerned is duty bound to register the document. Therefore, the third respondent has no jurisdiction to pass the impugned refusal check slip and hence, the same is liable to be dismissed.

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

5. As per Section 17(2)(vi) of the Registration Act, 1908, it is very clear that if any decree or order is passed by a Court, the Registrar/Sub-Registrar can register the same.



6. For better appreciation Section 17(2)(vi) of the Registration Act, 1908 is extracted hereunder :

" 17. Documents of which registration is compulsory :-

(1)

(2) Nothing in clauses (b) and (c) of sub-section (1) applies to

(vi) any decree or order of a Court [except a decree or order expressed to be made on a compromise and comprising immovable property other than that which is the subject matter of the suit or proceedings]; or"

7. It is settled proposition of law that no Circular will prevail over the Act or Rules. If the decree/deed 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



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registration is subsequently set aside or over-ruled or modified by the competent forum, the said decree is an executable decree, and it is the duty of the Registrar to register the document, if the document is otherwise in order and within the purview of the Registration Act. Therefore, the reason given by the third 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 third respondent herein referred to the circular and refused registration, which is highly deprecated. Therefore, the



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impugned refusal check slip dated 25.09.2023 passed by the third respondent is liable to be quashed.

8. In view of the above, this writ petition is allowed and the impugned refusal check slip dated 25.09.2023 passed by the third respondent is quashed. The respondent is directed to register the judgment and decree dated 18.09.2015 passed in O.S.No.133 of 2014 on the file of the District and Sessions Court, Dharmapuri, if the same is otherwise in order, within a period of four weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Speaking Order : Yes/No

Neutral Citation Case : Yes/No

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To

- 1.The Inspector General of Registration,
No.100, Santhome High Road,
Pattinapakkam, Chennai – 600 028.
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P.VELMURUGAN, J.
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