



W.P.No.5344 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No. 5344 of 2024

and

W.M.P.Nos.5870 and 5872 of 2024

1.John Khan

2.Aamenabi

... Petitioners

versus

The Sub Registrar,
Elavanasur,
Cuddalore Road,
Villupuram – 607 202.

.....Respondent

Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent in Refusal Slip No.RFL/Elavanasoor/111/2023 dated 12.12.2023 and quash the same and consequently direct the respondent to register the decree dated 04.09.2020 passed in O.S.No.255 of 2015 by the learned Principal District Munsif, Ulundurpet, in accordance with Law.



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For Petitioners : Mr.Sharath Chandran
For Respondent : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

Mr.Yogesh Kannadasan, learned Special Government Pleader 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/Elavanasoor/111/2023 dated 12.12.2023 and consequently direct the respondent to register the decree dated 04.09.2020 passed in O.S.No.255 of 2015 by the learned Principal District Munsif, Ulundurpet, in accordance with Law.

3.The learned counsel for the petitioners submitted that the petitioners filed a suit in O.S.No.255 of 2015 on the file of the Principal District Munsif Court, Ulundurpet, for permanent injunction restraining the



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defendants therein, their men and agents from interfering into the subject properties herein and the same was decreed *ex-parte* on 04.09.2020. While so, the petitioner presented the said decree for registration on 12.12.2023, however, the respondent refused to register the same and passed the impugned refusal check slip stating that as per the Circular in ந.க.எண்.34930/சீ11/2019 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 is duty bound to register the document. He further submitted that the above said Circular has already been quashed by this Court in W.P.No.36564 of 2023, dated 05.01.2024. Therefore, the 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 any decree or order of a Court passed *ex-parte* is not exempted from the Section.



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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 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 registration



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is subsequently set aside or over ruled or modified by the competent forum, it is the duty of the Registrar/Sub-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 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 to register, which is erroneous. Therefore, the



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impugned refusal check slip dated 12.12.2023 passed by the respondent is liable to be quashed.

8. In view of the above, this writ petition is allowed and the impugned refusal check slip dated 12.12.2023 passed by the respondent is quashed. The respondent is directed to register the judgment and decree dated 04.09.2020 passed in O.S.No.255 of 2015 on the file of the learned Principal District Munsif Court, Ulundurpet, if the same is otherwise in order.

9. W.M.P.No.5870 of 2024 is ordered on payment separate Court fees, by each of the petitioners.

11. Consequently, connected W.M.P.No.5872 of 2024 is closed. However, there shall be no order as to costs.

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Index: Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No
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Pg.Nos.6/8



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To

The Sub Registrar,
Elavanasur,
Cuddalore Road,
Villupuram – 607 202.

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P.VELMURUGAN, J.

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