



W.A.No.975 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2024

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

Writ Appeal No.975 of 2024

Mrs.Rajamani

... Appellant

Vs.

1.The District Registrar, (Administrative),
Syrian Church Road,
Coimbatore – 641 018.

2.The Sub Registrar,
Annur Taluk,
Coimbatore District – 641 653.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 24.11.2023 made in W.P.No.31136 of 2023.

For Appellant

: Mr.K.Sudhakar

For Respondents

: Mr.Yogesh Kannadasan

Special Government Pleader



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J U D G M E N T

(Judgment of the Court was delivered by S.M.SUBRAMANIAM, J.)

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The dismissal of the writ petition filed against the order of Refusal Check Slip issued by the Sub-Registrar, Annur Taluk, Coimbatore District is questioned in the present writ appeal.

2. The preliminary decree passed in a Partition Suit was presented for registration under the Tamil Nadu Registration Act. The Registering Officer refused to register the same on the ground that the share pertaining to the appellant has not been clearly demarcated in the preliminary decree. Therefore, the decree passed by the Civil Court cannot be registered. The Writ Court also affirmed the decision taken by the Registering Officer. Thus, the present writ appeal.

3. Section 18 of the Tamil Nadu Registration Act, 1908 deals with the documents of which registration is optional, which reads as under:

“Any of the following documents may be registered under this Act, namely:-

(a) instruments (other than instruments of gift and wills) which purport or operate to create, declare, assign,



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limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of a value less than one hundred rupees, to or in immovable property;

(b) instruments acknowledging the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest;

(c) leases of immovable property for any term not exceeding one year, and leases exempted under section 17; [instruments transferring or assigning any decree or order of a Court or any award when such decree or order or award purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of a value less than one hundred rupees, to or in immovable property]

(d) instruments (other than wills) which purport or operate to create, declare, assign, limit or extinguish any right, title or interest to or in movable property;

(e) wills; and

(f) all other documents not required by Section 17 to be registered.”

4. The above provisio would unambiguously clarify that if the interest has been created in respect of a property through a Civil Court Decree, then such decree is registerable under the Act. Though the share has not been demarcated, which is to be done during final decree proceedings in a partition suit, the interest created in respect of the share would be sufficient under Section 18 of the Registration Act to register the preliminary decree. In the present case, the right of the appellant to an extent of 1/3rd share in the schedule mentioned property in the preliminary decree is confirmed. That being so, the decree can be registered and there is no impediment under



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Section 18 of the Act. Thus, we find the writ order is running counter to the spirit of Section 18 of the Registration act. Accordingly, the order impugned is liable to be set aside.

5. We have gone through the preliminary decree passed in O.S.No.03 of 2018 dated 14.06.2023. The appellant is the plaintiff in the original suit and the suit is for partition. The decree was passed stating that the plaintiff and the defendants no.2 and 3 being the legal heirs of the deceased Naheswari are entitled for 1/3 share in the suit property and the defendants 2 and 3 are directed to pay their respective Court fees. The schedule of property including the boundaries have been included in the preliminary decree. When the property details including the boundaries are provided in the preliminary decree and 1/3rd share has been allotted to the plaintiff, the preliminary decree is registerable under the Act.

6. Accordingly, the order dated 24.11.2023 in W.P.No 31136 of



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2023 is set aside and the Writ Appeal stands **allowed**. No cost.

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[S.M.S.J.] [K.R.S.J.]
25.03.2024

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

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2.The Sub Registrar,
Annur Taluk,
Coimbatore District – 641 653.

S.M.SUBRAMANIAM,J.
AND
K.RAJASEKAR,J.



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