



W.P.No.8746 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05..04..2024

Coram

THE HON'BLE MR JUSTICE N.SATHISH KUMAR

Writ Petition No.8746 of 2024

&

W.M.P. No.10984 of 2024

Kuppammal

..... Petitioner

-Versus-

1.The District Registrar,
Dharmapuri, Dharmapuri District.

2.The Sub Registrar,
Pochampalli Registrar Office,
Krishnagiri District.

3.K.Govindharaj

..... Respondents

(R3 impleaded vide order dated 05.04.2024
made in W.M.P. No.10984 of 2024 in
W.P. No.8746 of 2024)

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records of refusal check slip dated 01.08.2023 in Refusal No.RFL/Pochammpalli/5/2023 dated 01.08.2023 passed by the second respondent and quash the same as illegal and consequently direct the second respondent to register the document.



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For Petitioner : Mr.V.Balamurugan

*For Respondent (s) : Mr.L.S.M.Hasan Fizal,
Addl. Govt. Pleader for R1 & R2
Mr.T.Dharani for R3*

ORDER

This writ petition has been filed challenging the refusal check slip dated 01.08.2023 in Refusal No.RFL/Pochammpalli/5/2023 dated 01.08.2023 passed by the second respondent and seeking a consequential direction to the 2nd respondent directing him to register the final decree dated 19.12.2005 passed in I.A.No.298 of 2004 in O.S.No.11 of 1992 on the file of the Principal Subordinate Judge, Krishnagiri.

2. It is the case of the petitioner that suit in O.S.No.11 of 1992 was filed for partition among the co-owners before the learned Principal Subordinate Judge, Krishnagiri wherein a preliminary was passed. Pursuant to the preliminary decree, an application for final decree was taken out and final decree was granted on 19.12.2005 in I.A.No.298 of 2004 allotting a share to the petitioner with separate possession. When the final decree was presented for registration, it was refused to be registered by the 2nd respondent registering authority on the ground that her name was found place in the revenue records and therefore, as per circular order in ref.No.34930/C1/2019 dated 27.02.2023



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registration could not be done. It is this refusal order which is now under challenge in the present writ petition.

3. One K.Govindaraj filed an application in M.P.No.10984 of 2024 seeking to implead him as the 3rd respondent in the writ petition. According to him, he has purchased the subject property from one of the co-owners on 30.03.2012 during the pendency of the suit. Now, his name has also been included in the revenue records. Therefore, he raised an objection for the registration of the final decree.

4. Considering the averments made in the affidavit filed in support of the impleading petition and the submission made on either side, this court is of the view that impleading the petitioner-K.Govindaraj will no way cause any prejudice to the opposite party. The impleading petition is ordered accordingly.

5. Heard Mr.V.Balamurugan, learned counsel for the petitioner, Mr.L.S.M.Hasan Fikal, learned Additional Government Pleader for the respondents 1 and 2 and Mr.T.Dharani, learned counsel for the 3rd respondent.

6. At the outset when a civil court has already determined the right of the parties and passed a final decree allowing shares to the respective co-owners, it is the duty of the registering authority to register such final decree as per law. Section 23 of the Registration Act provides for presentation of such document



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for registration. This court has time and again held that the limitation provided for presentation of final decree or orders of the court will not apply.

7. The impleading petitioner is admittedly a purchaser *pendente lite* from one of the co-owners. He therefore steps into the shoes of his vendor and the impleading petitioner will workout his remedy against the share allotted to his vendor.

8. When the civil court has conclusively determined the right of the parties in respect of an immovable property, it is none of the business of the registering authority to sit over the judgment of the civil court and refuse to register the final decree or orders of the court on the ground that names of the parties to the document were not found place in the revenue records. The circular order relied upon by the 2nd respondent in the impugned refusal slip vide circular order ref.No.34930/C1/2019 dated 27.02.2023 issued by the Inspector General of Registration cannot override the statutory provisions when the right of the parties had already been conclusively determined on the basis of substantive law of the land. Such view of the legal position, the impugned refusal slip is liable to be set aside.

9. Accordingly, the impugned refusal slip is set aside and the 2nd respondent is directed to register the document presented for registration by the



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petitioner within a period of one months from the date of receipt of a copy of

this order.

This writ petition is allowed accordingly with the above directions. No costs.

05..04..2024

Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
kmk

Note: The Registry is directed to carryout necessary amendment in the writ petition.

To

1.The District Registrar,
Dharmapuri, Dharmapuri District.

2.The Sub Registrar,
Pochampalli Registrar Office,
Krishnagiri District.



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N.SATHISH KUMAR.J.,
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