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W.P.No.7928 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2024

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THE HON'BLE MR. JUSTICE P.VELMURUGAN

W.P.No.7928 of 2024

Shanmugam

... Petitioner

Vs.

The Sub Registrar,
Office of he Sub Registrar,
Moolanur,
Tiruppur District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of order of refusal Check Slip in RFL / Moolanur / 9 / 2024 dated 22.02.2024 passed by the respondent herein and to quash the same and consequently direct the respondent to register the exparte judgment and decree dated 10.08.2023 made in O.S. No.326 of 2020 on the file of Learned District Munsif Court, Dharapuram presented by the petitioner.

For Petitioner : Mr.N.Ponraj



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For Respondent : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, calling for the records of order of refusal Check Slip in RFL / Moolanur / 9 / 2024 dated 22.02.2024 passed by the respondent herein and to quash the same and consequently direct the respondent to register the exparte judgment and decree dated 10.08.2023 made in O.S. No.326 of 2020 on the file of Learned District Munsif Court, Dharapuram presented by the petitioner.

2. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the official respondent and perused the materials available on record.

3. The contention of the petitioner is that his father owned the property in Natham Survey No.324/A(New Natham Survey No.2236/23) in Kilangundal Village. The petitioner filed a suit in O.S.No.326 of 2020



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on the file of the learned District Munsif Court, Dharampuram, seeking relief of declaration, since the defendants in the suit are attempted to grab the pathway which is on the southern side of S.No.2236 of 2021. Since the defendants in the said suit did not come forward to proceed with the suit, the petitioner obtained an ex-parte decree by judgment dated 10.08.2023. On 22.02.2024, the petitioner presented the decree before the Sub Registrar, Moolanur, Tiruppur District/ respondent herein, for registration, whereas, the respondent refused to register the same and issued the refusal check slip stating that ex- parte order cannot be registered as per the circular issued by the Deputy Inspector General of Registration, Chennai, in Na.Ka.No.34930/C1/2019 dated 27.02.2023 and also as per order of this Court in W.P.(MD) No.5955 of 2014 dated 27.07.2016. The respondent without applying his mind and without understanding the abovesaid order of this Court, simply refused to register the exparte decree. Challenging the refusal check slip, the present writ petition has been filed.



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4. The learned counsel for the petitioner further submitted that in many cases this Court has already given a direction to the registering authorities that, like any other decree, ex-parte decree has to be registered unless the said decree is subsequently set aside or over ruled or modified.

5. It is made clear that, unless the ex-parte decree is set aside by the same Court or reversed by the appellate Court, like any other decree, the ex-parte decree is also a decree which has to be registered if it is presented by the parties concerned and meets out the other requirements as per the Registration Act and that the registration cannot be rejected on the sole ground just because it is an ex-parte decree.

6. Section 17(2)(vi) of the Registration Act says, any decree or order passed by a Court has to be registered. In earlier Writ Petitions, this Court has clarified that like any other decree, ex-parte decree also has to be registered. Despite the specific provisions and also the directions of this Court, the respondent has refused to register the ex-parte decree produced by the petitioner which is a clear violation of the order of this



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Court. Therefore, the impugned refusal Check Slip in RFL / Moolanur / 9 / 2024 dated 22.02.2024 passed by the Respondent is quashed.

7. In view of the above, the petitioner is directed to re-present the document before the respondent for registration and on receipt of the same, the respondent is directed to follow the directions of this Court passed in W.P.(MD) No.5955 of 2014 dated 27.07.2016 and after verifying the document, if it is otherwise in order, the respondent shall register the same.

8. With the abovesaid direction, the Writ Petition is allowed.

There shall be no order as to costs.

27.03.2024

mfa

Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

The Sub Registrar,
Office of the Sub Registrar,
Moolanur,



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Tiruppur District.
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P.VELMURUGAN, J.

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