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W.P.No.23393 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.11.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.23393 of 2024
and
W.M.P.No.25559 of 2024

Ammasaiappen

.... Petitioner

Vs

Sub Registrar,
Kangeyam,
Tiruppur District.

.... Respondents

Prayer: Writ Petition is filed under Article 226 to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order in RFL / Kangeyam/37/2024 dated 05.07.2024 and quash the same and consequentially direct the respondent to register the proceedings in O.S. No 309 of 1956 on the file of District Munsif Court, Dharapuram as confirmed by the Sub Court, Erode in A.S.No.204 of 1958 and further confirmed in S.A.No.1521 of 1960 by this Court.

For Petitioner : Mr.J.Titus Enock

For Respondent : Ms.C.Meera Arumugam
Additional Government Pleader



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ORDER

Challenging the refusal check slip issued by the respondent refusing to register the decree in O.S.No.309 of 1956 on the file of the District Munsif Court, Dharapuram as confirmed by the Sub Court, Erode in A.S.No.204 of 1958 and further confirmed in S.A.No.1521 of 1960 by this Court, the petitioner is before this Court.

2. The petitioner contention is that he had purchased a land measuring an extent of 6.02 acres in S.F.No.639, Nelili Village, Tiruppur District, under the registered sale deed dated 11.12.1991 from one K.P.Subramaniam for valid consideration. The said K.P.Subramaniam in turn had purchased the property from one V.M.P.Veeramuthu Chettiar under the registered sale deed dated 13.07.1972. The said V.M.P.Veeramuthu Chettiar had got the property under the registered partition deed dated 25.07.1941. The property had been purchased by the said V.M.P.Veeramuthu's father Periasamy Chettiar in the year 1932 from one Palanisamy Gounden.



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3. The petitioner would submit that the suit had been initiated by one Karunai Ammal in O.S.No.309 of 1956 on the file of the District Munsif Court, Dharapuram, against his predecessor in title Palanisamy Gounden and others for recovery of the plaint 'A' Schedule property and for partition of the 'B' Schedule property. The property, i.e, the subject matter of this writ petition, was described as 16th item in 'A' Schedule. The suit filed by the said Karunai Ammal was dismissed and confirmed the right upto this Court in S.A.No.1521 of 1960. The petitioner would submit that the revenue records had been mutated in his name in respect of the aforesaid survey number. He also submitted that the petitioner had presented the decree in O.S.No.309 of 1956 for registration before the respondent. The respondent rejected the same on the ground that the original order had not been produced. Therefore, the petitioner is before this Court.

4. When the matter had came up for admission, the learned Additional Government Pleader took an objection that the registration of the decree is sought for 70 years after the decree and therefore, on the ground of delay, the same cannot be accepted and the refusal is a valid one.



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5. An objection has been taken that the petitioner, who is now before this Court, is not a party to the suit or the Judgment which is sought to be registered. However, a perusal of the affidavit filed in support of the writ petition clearly shows that the petitioner is claiming under the parties in the suit. Therefore, this argument of the learned Additional Government Pleader cannot be countenanced.

6. Mr. Titus Enock, learned counsel appearing on behalf of the petitioner submitted a Judgment reported in ***CDJ 2021 MHC 3204***. A batch of writ petitions had been filed wherein the respective Sub-Registrar had refused to register the decrees of the Civil Suit on the ground of delay in presenting the document for registration. The learned Judge, after considering the Full Bench Judgment of the Hon'ble Andhra Pradesh High Court reported in ***AIR 1959 AP 626*** in the case of ***Padala Satyanarayana Murthy Vs. Padala Gangamma*** and various provisions of the Registration Act pertaining to registration under Section 17, the time for presentation, delay in presentation and the Judgment of the Hon'ble Division Bench Madurai Bench of this Court reported in ***2019 (3) MLJ 517***, in the case of S.Sarvothaman Vs. Sub Registrar, Oulgaret,



Pondicherry, observed as follows :

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“19. Division Bench of this Court in S.Sarvothaman case (cited supra), after referring to various judgments on the point, held that a decree or order of a Civil Court is not compulsorily registrable and it is only optional and as such, the limitation prescribed under the Act would not stand attracted. The relevant portion of the judgment reads as follows :-

“19. A Full Bench of the Andhra Pradesh High Court in the case of Padala Satyanarayana Murthy Vs. Padala Gangamma [reported in AIR 1959 AP 626] answered a reference as to whether Section 77 of the Indian Registration Act bars a suit on the basis of an unregistered Will, when the Sub-Registrar refused to admit it for registration. It was held that Section 17 of the Act enumerates the documents, which require registration and the effect of failure to observe it is stated in Section 47 and that under Section 18(c) of the Act, the registration of a Will is purely optional and that being so, the Full Bench expressed that they did not think that the consequences contemplated by Section 49 would flow from not having recourse to Section 77 of the Act. It was further held that a party cannot be compelled to get document registered if such an obligation is not east by the provisions of the Registration Act, that the necessity for registration arises only in regard to document set out in Section 17, that no penalty can attach to the omission to get a document registered when it is excepted by Section 17 and that therefore, the Full Bench felt that Section 77



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can have relation only to instrument falling within the ambit of Section 17.”

7. Ultimately, the learned Judge allowed the application by observing that the consistent view taken by this Court was that the limitation period prescribed under the Registration Act would not act as a bar for presenting the decrees or orders of the Civil Court for registration. Therefore, applying the ratio of the said Judgment to the case on hand, this writ petition is allowed. The respondent shall register the decree in O.S.No.309 of 1956 within a period of two weeks from the date of its representation. Consequently, connected miscellaneous petition is closed. No costs.

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Index : Yes/No
Internet : Yes/No
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To

Sub Registrar,
Kangeyam,
Tiruppur District.



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P.T. ASHA, J,

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