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W.P.No.30977 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2024

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.30977 of 2024

T.Mohan

... Petitioner

VS.

The Sub-Registrar,
Vembakkam Sub Registrar Office,
Tiruvannamalai District.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the Refusal Check Slip in RFL / Vembakkam / 71 / 2024 dated 10.09.2024 issued by the respondent herein, quash the same and consequently direct the respondent herein to register the Decree and Judgment in OS No.97/2023 dated 01.12.2023 passed by the learned Principal District Munsif, Cheyyar, Tiruvannamalai District.

For Petitioner : Mr.G.Mageshkumar

For Respondent : Mr.M.Shahjahan
Special Government Pleader



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ORDER

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By consent of both the learned counsel appearing for the petitioner as well as respondent, this writ petition is disposed of at the admission stage itself.

2. Aggrieved by the impugned Refusal Check Slip in RFL / Vembakkam / 71 / 2024 dated 10.09.2024 issued by the respondent refusing to register the decree passed by the Civil Court in O.S.No.97 of 2023, dated 01.12.2023 presented for registration, the petitioner has come before this Court.

3. It is the case of the petitioner that the petitioner acquired right over 1.22 acres of land in Survey No.416/1B1 and 69 cents of land in Survey No.416/1A1 in North Iluppai Village, Vembakkam Taluk, Tiruvannamalai District under a Partition Deed dated 16.05.2014. Since one Chandirasekhar and Vijayagamoorthy attempted to interfere with petitioner's peaceful possession, he filed a suit for permanent injunction against them in O.S.No.97 of 2023 on the file of Principal District Munsif Court, Cheyyar,



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Tiruvannamalai District. The suit was decreed *ex parte* on 01.12.2023. The petitioner wanted to register the judgment and decree passed in the suit and presented the same before the respondent. However, the respondent refused registration on the ground that it does not involve any transfer of interest in immovable property and aggrieved by the same, the petitioner has come before this Court.

4. The learned counsel appearing for the petitioner submits that the reasoning given by the respondent for refusing registration of judgment and decree passed by the Civil Court is untenable in law.

5. Mr.M.Shahjahan, learned Special Government Pleader, who is taking notice for the respondent would submit that the decree sought to be registered is only an injunction decree and no transfer of property had taken place under the document and therefore, the respondent refused registration.

6. The civil suit was filed by the petitioner in respect of immovable property mentioned above and he obtained an *ex parte* decree for injunction. The learned counsel appearing for the petitioner submits that the decree is



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still in force. The defendants in the suit have not filed any petition to set aside the *ex parte* decree. The said statement is recorded.

7. A perusal of Section 17 of the Indian Registration Act, 1908, would suggest that the registration of judgment and orders passed by the Civil Court is optional one in view of Section 17(2)(vi) of Registration Act, 1908. The respondent is unable to point out any provision in the Registration Act, creating specific bar for registration of Civil Court's order and decree from registration on the ground that it does not involve any transfer of interest in immovable property. The decree for injunction granted in favour of the petitioner will certainly implies the possession of the petitioner over the immovable property mentioned above.

8. In such circumstances, the reasoning given by the respondent for refusing registration is unsustainable in law and the same is against Section 17(2)(vi) of Registration Act, 1908. Accordingly, the impugned Refusal Check Slip in RFL / Vembakkam / 71 / 2024 dated 10.09.2024 issued by the respondent is set aside and the writ petition stands allowed.



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9. The petitioner is directed to represent the document before the respondent along with affidavit mentioning that the judgment and decree passed by the Civil Court is still effective, within a period of two weeks from the date of receipt of copy of this order. The respondent shall consider the same for registration, if it is otherwise in order. No costs.

23.10.2024

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
dm

To

The Sub-Registrar,
Vembakkam Sub Registrar Office,
Tiruvannamalai District.



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S.SOUNTHAR, J.

dm

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