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W.P. No. 32785 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2024

CORAM

THE HON'BLE Ms. JUSTICE P.T.ASHA

W.P. No. 32785 of 2024

Jothimani

... Petitioner

-VS-

The Sub-Registrar
Sub-Registrar Office
Kaniyur, Tiruppur District.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, to direct the Respondent to register the judgment and decree of this Court in S.A. No. 1467 of 2011 dated 18.04.2023 as per the Petitioner's online Application dated 27.09.2024 within stipulate time fixed by this Court.

For Petitioner : Mr.K.Mohan Raj

For Respondent : Mr.M.Shahjahan, SGP

ORDER

The petitioner seeks a mandamus to the respondent to register the judgment and the decree passed by this Court in the Second Appeal in S.A. No.1467 of 2011 by accepting the petitioner's online application dated 27.09.2024.



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2. The petitioner's contention is that the property measuring an extent of 0.81 punjai hectare comprised in S.F.No.208/8 in Pappankulam Village, Udumalpet Taluk was sold to petitioner's husband by his brother viz., Kalimuthu under an unregistered sale deed dated 20.07.1998. This sale deed had been executed by Kalimuthu, both for himself and on behalf of his minor children. When attempting to register the sale deed, it has come to the notice that an attachment order was passed in respect of the above property by the Court in O.S. No. 272 of 1996, which was the suit filed by one Velusamy Gounder against the said Kalimuthu.

3. Though Kalimuthu had executed the unregistered sale deed, he had, suppressing the above fact filed a suit in O.S. No. 233 of 2007 against the petitioner and her husband. In the said proceedings, the unregistered sale deed dated 20.07.1998 was marked as Exhibit B1. The suit was decreed on 16.03.2011 and Exhibit B1, rejected. Against the same, the petitioner and her husband had filed A.S. No. 6 of 2011 before the Sub-Court, Udumalpet, which was dismissed by an order dated 29.08.2011. Aggrieved by the concurrent judgment and decree, they had filed a Second Appeal in S.A. No. 1467 of 2011 before this Court and after a detailed hearing, this Court was pleased to allow the Second Appeal and decreed and set aside the decree granted in favour of



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Kalimuthu.

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4. The said judgment was taken up before the Hon'ble Supreme Court in S.L.P. (C) No. 024501 of 2023 and the same was dismissed on 30.10.2023 and therefore, the judgment and decree of this Court in S.A. No. 1467 of 2011 was reached finality. Since this Court in the judgment in S.A. No. 1467 of 2011 had upheld the validity of Exhibit B1 of unregistered sale deed in favour of the petitioner and her husband, the document was sought to be registered. The Registering Authority is neither registering the same nor refusing to register the same. Aggrieved by which, the petitioner is before this Court.

5. A learned Single Judge of this Court while hearing a case in ***Karpagam -vs- Sub Registrar, Kundrathur NGS Enclave, Manickam Salai, Kundrathur, Chennai – 600 069*** [Order dated 12.07.2022 made in W.P.No.17601 of 2022] for registration of a Judgment and decree presented after the period of limitation contended that the orders in W.A. No. 336 of 2019 had dealt with extensively about the registration of the decrees and judgments. Ultimately, the learned Judge had allowed the writ petition and directed the registering authorities to register the judgment.



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6. Following the said judgment, this writ petition is allowed. No costs.

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Index: Yes/No

NCC: Yes/No

Maya

To

The Sub-Registrar
Sub-Registrar Office
Kaniyur, Tiruppur District.



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P.T.ASHA, J.

Maya

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