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W.P. No.4447 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.4447 of 2024

B.Maheshwari

... Petitioner

Vs.

1. The Inspector General of Registration

No.100, Santhome High Road,
Foreshore Estate, Pattinapakkam,
Chennai - 600 028

2. The Sub-Registrar

Gandhipuram Sub Registrar Office
Coimbatore District

3. A.Subramani

4. A.Ranganthan

5. A.Pappathi

6. A.Lakshmi

... Respondents

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 impugned order made in RFL/Gandhipuram/81/2023, dated 21.10.2023, passed by the 2nd respondent, quash the same as illegal, arbitrary and consequently, directing the 2nd respondent to register the Certified copy of the final decree, dated 09.08.2023, passed in I.A.No.2 of



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2022 in O.S.No.784 of 2021, on the file of the II Additional Subordinate Judge, Coimbatore, on payment of registration charges alone without insisting for payment of any stamp duty under the Registration Act, 1908.

For Petitioner : Mr.R.Chakkaravarthy
For R1 and R2 : Mr.U.Baranidharan
Additional Government Pleader

ORDER

This Writ Petition is filed seeking to issue to a Writ of Certiorarified Mandamus calling for the records relating to the impugned order made in RFL/Gandhipuram/81/2023, dated 21.10.2023, passed by the 2nd respondent, quash the same as illegal, arbitrary and consequently, directing the 2nd respondent to register the Certified copy of the final decree, dated 09.08.2023, passed in I.A.No.2 of 2022 in O.S.No.784 of 2021, on the file of the II Additional Subordinate Judge, Coimbatore, on payment of registration charges alone without insisting for payment of any stamp duty under the Registration Act, 1908.

2. The learned counsel for the petitioner submitted that the petitioner had filed a suit in O.S.No.784 of 2021 on the file of the II Additional



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Subordinate Judge, Coimbatore, for partition and permanent injunction and

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on 24.02.2022, an ex-parte order was passed. Subsequently, the petitioner obtained a final decree in the above suit on 09.08.2023. Thereafter, he presented the final decree before the 2nd respondent for registration but, the 2nd respondent instead of registering the same, passed the impugned refusal check slip on the ground that Patta and encumbrance certificate were not produced. Hence, challenging the same, the present Writ Petition is filed before this Court.

3. Mr.U.Baranidhanran, learned Additional Government Pleader who takes notice for the respondents 1 and 2, referred to a Judgment of this Court in W.P. (MD) No.5955 of 2014 dated 27.07.2016 wherein, it has been stated that it is always necessary and important that the person who seeks to register a decree of Civil Court may be asked to prove that the decree has become final and that it is not collusive.

4. Since the private respondents herein were already party to the said suit and they remained ex-parte in the final decree, notice to the private



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respondents/respondents 3 to 6 is dispensed with.

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5. Heard and perused the materials available on record.

6. It is pertinent to note that Section 17(2)(vi) of the Registration Act says about compulsory registration of a decree or order of a Court [except a decree or order expressed to be made on a compromise and comprising immovable property other than that which is the subject-matter of the suit or proceeding]. Proviso 23 of the Registration Act says when a copy of a order or decree is presented for registration within a period of four months from the day on which it became final, the same may be registered. But it is shocking to see that in the impugned refusal check slip issued by the 2nd respondent/Sub Registrar, by sitting as an appellate authority of the Civil Court, he wanted to verify all the title documents. It is settled proposition that, unless a decree is set aside or modified or over ruled by the competent Court, it is an executable decree and the Registering authority is bound to register the decree if the decree presented before the Registering Officer is otherwise in order and that the Registrar has no other option except to



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register the same in the manner known to law.

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7. Already, this Court time and again has given directions to the Revenue authorities that any decree including ex-parte decree, unless the same is subsequently set aside or modified or over ruled, it has to be registered. But, in several cases, this Court finds that the Registering authorities are ignoring the same and they are causing inconvenience to the public.

8. In this case, before passing of the preliminary decree and final decree, notices were sent to private respondents and they remained ex-parte. Therefore, initially, preliminary decree was passed and subsequently, after receiving report from the Advocate Commissioner, final decree was passed. It is only a suit for partition. Therefore, the decision referred to by the counsel for the respondent is not applicable to the present case on hand.

9. Therefore, the impugned refusal check slip passed by the 2nd respondent, is quashed. The 2nd respondent to register the Certified copy



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of the final decree, dated 09.08.2023, passed in I.A.No.2 of 2022 in

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O.S.No.784 of 2021, on the file of the II Additional Subordinate Judge, Coimbatore, in accordance with law. If the private respondents are aggrieved by the same, they can work out their remedy in the manner known to law.

10. As far as the relief of exemption of stamp duty sought for by the writ petitioner is concerned, it is left open to the official respondents to consider the same if, the petitioner is otherwise eligible or they shall proceed with the same within the purview of the Registration Act.

11. In the result, the Writ Petition is allowed. No costs.

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Index : Yes / No



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P.VELMURUGAN. J.

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To

1. The Inspector General of Registration
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Foreshore Estate, Pattinapakkam,
Chennai - 600 028
2. The Sub-Registrar
Gandhipuram Sub Registrar Office
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