



W.P.(MD)No.13579 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.07.2024

CORAM

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

WP(MD)No.13839 of 2024

Rengasamy

... Petitioner

Vs.

1.The Inspector General of Registration,
Santhom High Road,
Raja Annamalaipuram,
Chennai.

2.The District Registrar,
District Registrar Office,
Tirunelveli District.

3.The Sub Registrar,
Sub Registrar Office,
Radhapuram, Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records in respect of the impugned order passed in RFL/Radhapuram/10/2024 dated 17.04.2024 by the 3rd respondent and quash the same as illegal and consequently direct the 3rd respondent to register the decree in O.S.No.181 of 1995 dated 24.01.2000 on the file Principle District Munsif Court, Valliyoor, Tirunelveli District in accordance with law within a stipulated time.



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For Petitioner : Mr.P.Ponraj

For Respondents : Mr.B.Saravanan,
Additional Government Pleader

ORDER

The petitioner has obtained decree in O.S No.181 of 1995 dated 24.01.2000 on the file of the Principal District Munsif, Valliur, Tirunelveli District. The petitioner wants to register the same. The registering authority refused registration. Challenging the same, this writ petition came to be filed.

2.A learned Judge of this Court vide order dated 13.02.2024 in W.P.No. 3185 of 2024 (Vetrivel Vs The Sub Registrar, Sankarapuram Sub Registrar Office, Sankarapuram, Kallakurichi District) had held as follows :

"5.As per Section 23 of the Registration Act, 1908, the respondent can refuse to register the document only when the decree was presented for registration beyond the stipulated period of 4 months. In the present case, the petitioner has got ex-parte decree from the competent Court on 05.10.2023 and presented before the respondent for registration within four months i.e. on 15.12.2023. However, the reason given by the respondent for not registering the decree is that it was an ex-



parte decree and hence as per the Circular in ந.க எண்.34930-
சீ1-2019 நாள் 27/02/2023, issued by the Inspector General of
Registration, Chennai, ex-parte decree cannot be registered.

6.The proviso to Section 23 of the Registration Act, 1908
reads as follows :

"23.Time of presenting document.- Subject to the
provisions contained in Sections 24, 25, and 26, no document
other than a Will shall be accepted for registration unless
presented for that purpose to the proper officer within four
months from the date of its execution.

Provided that a copy of a decree or order may be presented
within four months from the date on which the decree or
order was made, or, where it is appealable, within four months
from the date on which it becomes final."

7.Even Section 17(2)(vi) of the Registration Act, 1908, is also
very clear that if any decree or order is passed by a Court, the
Registrar/Sub Registrar can register the same.

8.For better appreciation Section 17(2)(vi) of the Registration
Act, 1908 is extracted hereunder :

" 17. Documents of which registration is compulsory :(1)

.....

(2) Nothing in clauses (b) and (c) of sub-section (1)



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applies to

(vi) any 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 proceedings]; or"

9.It is settled proposition of law that no Circular will prevail over the Act or Rules. If the order/decreed holder gives a valid reason for presenting the decree for registration, the same has to be considered, unless the said decree was subsequently set aside or over-ruled or modified. Even otherwise, if any dispute arises regarding the same, the aggrieved party can work out their remedy before the civil Court. The Registrar is not the competent authority to testify as to whether the ex-parte decree presented before him/her is a valid and executable one or not. Unless the decree presented for registration is subsequently set aside or over-ruled or modified by the competent forum, the said decree is an executable decree, and it is the duty of the Registrar to register the document, if the document is otherwise in order and within the purview of the Registration Act. Therefore, the reason given by the third respondent for not registering the ex-parte decree based on the said circular, is against the provisions of law and hence, the same cannot be accepted. Circular is only for internal communication and not to by-pass or over rule or modify the Act. This Court has come across several writ petitions wherein, the Registrars, by citing the said



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circular, have refused to register the ex-parte decree. The specific portion in the Circular ந.க எண்.34930-சு1-2019 நாள் 27/02/2023 directing the registering authority not to register the ex-parte decree, which is against Act or Rule, was already quashed by this Court in W.P.No.36564 of 2023, dated 05.01.2024. Further, this Court, time and again interpreted the proviso that if any under decree or order passed by this Court is presented for registration and the same is otherwise in order, the concerned authority has to register the same. Instead of registering the same, the respondent herein referred to the circular and refused registration, which is highly deprecated. Therefore, the impugned refusal check slip dated 15.12.2023 passed by the respondent is liable to be quashed."

3.I am inclined to adopt the very same approach in this case also. Respectfully following the aforesaid order, I quash the impugned refusal check slip. The petitioner is directed to represent the judgment and decree. It shall be received and registered by the third respondent.

4.This writ petition is allowed accordingly. No costs.

09.07.2024

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- To
- 1.The Inspector General of Registration,
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 - 2.The District Registrar, District Registrar Office, Tirunelveli District.
 - 3.The Sub Registrar, Sub Registrar Office, Radhapuram, Tirunelveli District.



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G.R.SWAMINATHAN, J.

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