



W.P.(MD) No.3389 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.3389 of 2018

K.Arun

... Petitioner

/vs./

**The Joint Sub Registrar No.4,
Palanganatham,
Madurai 625 003.**

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent to register the decree dated 02/08/2017 passed in AS(MD) No.95 of 2013 by this Court without insisting for payment of any stamp duty or to be accompanied by any deed.

For Petitioner : Mr.J.Barathan

**For Respondent : Mrs.D.Farjana Ghoushia
Special Government Pleader**



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ORDER

The petitioner has filed this writ petition for a Writ of Mandamus to direct the respondent to register the decree dated 02/08/2017 passed in AS(MD) No.95 of 2013 by this Court without insisting for payment of any stamp duty or to be accompanied by any deed.

2.The learned counsel for the petitioner has placed reliance on the decision of this Court in ***K.Krishnan Vs. Inspector General of Registration and another*** reported in ***(2019) 6 MLJ 523***. A reference is made to para 17 and 18 of the said judgment, which reads as under:

"17.In order to appreciate the same, the relevant portion of the said circular dated 26.10.2002 is hereby extracted:-

"4.The registration fee shall be levied only on the total value of the suit and not on the value of the property as per the guidelines or on separated shares as the document is only a copy of decree and not a partition."

18.The very same circular has also been heavily relied upon by the learned counsel appearing for the petitioner and he would submit that, the prayer sought for in this writ petition is only to give a mandamus by way of direction to the registering authority to register the Court decree, after collecting necessary registration charges. Therefore, the learned counsel appearing for the petitioner also agreed that, the petitioner has to pay necessary registration charges as contemplated under Clause 4 of the circular dated 26.10.2002 extracted herein above."



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3.In the same judgment, the Court has condoned the delay under Section 23 of the Registration Act, 1908.

4.The learned counsel for the petitioner has also placed reliance on the circular issued by the Inspector General of Registration dated 26.10.2002 bearing Ref.No.56710/C2/2001. A reference is made to para 1 and 4 of the said circular, which reads as under:

"1.Copy of Court decree is not an instrument chargeable to duty under the Indian Stamp Act, 1899. The original is one, which is drawn on the non-judicial stamp paper and kept in the court records. If the copy of court decree is desired to be registered, the same shall be stamped with a Court fee label as prescribed in Article (7) schedule II of the Court fees and Suit Valuation Act.

2.....

3.....

4. The registration fee shall be levied only on the total value of the suit and not on the value of the property as per the guidelines or on separated shares as the document is only a copy of decree and not a partition."

5.The learned Special Government Pleader for the respondent on the other hand would rely on the decision of this Court rendered in ***W.P.No.12778 of 2020 (V.Govindaraj Vs. The Sub Registrar) dated 16.09.2020***. A reference is made to



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para 19 from the earlier order passed in W.P.No.9686 of 2020 dated 24.07.2020, wherein the Court had taken note of the decision of the Full Bench of Andhra Pradesh High Court in the case of ***Padala Satyanarayana Murthy Vs. Padala Gangamma*** reported in ***AIR 1959 AP 626***.

6.It is submitted that while disposing of W.P.No.12778 of 2020 vide order dated 16.09.2020, the Court had ultimately directed the petitioner to pay necessary stamp duty and registration fee at the time of registration of the decree.

7.By way of rejoinder, the learned counsel for the petitioner has drawn attention to the another order of this Court rendered in ***W.P.(MD) Nos.8091, 8093 and 9446 of 2020 (M.Rajendran Vs. The Inspector General of Registration and others) dated 25.06.2021*** for an identical relief, wherein this Court had taken a view directing the respondents to register the certified copy of the decree stating that the fee shall be levied only on the total value of the suit property.

8.It is noticed that the decision of the Court in the case of ***K.Krishnan Vs. The Inspector General of Registration and another*** reported in ***2019 (4) TNLJ***



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92 (Civil), has not ordered complete waiver of stamp duty. All that the Court has ordered is relaxation of the limitation under Section 23 of the Registration Act, 1908 for payment of registration fee. Therefore, the petitioner's prayer for registration of the decree passed in A.S.(MD) No.95 of 2013 on 02.08.2017 without stamp duty cannot be allowed.

9.That apart, in Circular dated 26.10.2002, content of which has been extracted above in para 1 itself, it has been stated that if the copy of the Court decree is desired to be registered, the same shall be stamped with a Court fee label as prescribed in Article 7 Schedule II of the Court fees and Suit Valuation Act.

10.The Writ Petition stands disposed of with the above observations. No costs.

Index : Yes / No
Internet : Yes / No
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01.08.2024

To

The Joint Sub Registrar No.4,
Palanganatham,

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C.SARAVANAN, J.

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