



W.P(MD)No.30506 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.30506 of 2024

R.Manimegalai

... Petitioner

Vs

1.The District Registrar (Administration),
Registration Department,
Madurai.

2.The Sub-Registrar,
Joint – IV, Palanganatham,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus directing the second respondent to register the order made in I.A.No.2921 of 2014 in O.S.No.71 of 2014 Vth Additional District Court, Madurai dated 16.12.2020 based on the application submitted on 29.10.2024 by the petitioner within the period stipulated by this Court.

For Petitioner : Mr.V.Suresh Kanna

For Respondents : Mr.M.Sarangan
Additional Government Pleader



W.P(MD)No.30506 of 2024

WEB COPY

ORDER

This Writ Petition has been filed by the petitioner for a direction directing the second respondent to register the order passed in I.A.No.2921 of 2014 in O.S.No.71 of 2014 dated 16.12.2020 on the file of Vth Additional District Court, Madurai.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.The petitioner's grandfather Theerthan owned property comprised in Survey No.251/3 to an extent of 98 cents situated at Madakulam Village, Madurai. After his demise, his sons namely Ramasamy and Alagu Kudumban entered into an oral partition. Accordingly, the subject property was allotted in favour of the petitioner's father Ramasamy. After his demise, the petitioner and his brother Rajendran derived title over the property. The petitioner's paternal uncle ie., brother of his father passed away leaving behind his four daughters as his legal heirs. They had no right over the subject property since the entire property was allotted in favour of the petitioner's father by oral partition. While



W.P(MD)No.30506 of 2024

being so, the legal heirs namely four daughters had partitioned the subject property by partition deed and also obtained patta in their favour. Therefore, the petitioner filed a suit in O.S.No.71 of 2014 on the file of V Additional District Court, Madurai for partition in respect of their family property comprised in Survey No.184/3 admeasuring to an extent of 4 cents, the property comprised in Survey No.184/5 admeasuring to an extent of 10 cents, the property comprised in Survey No.348 admeasuring to an extent of 34 cents, the property comprised in Survey No.240/5B admeasuring to an extent of 76 cents, the property comprised in Survey No.260/2 admeasuring to an extent of 84 cents and the property comprised in Survey No. 251/3 admeasuring to an extent of 98 cents situated at Madakulam Village, Madurai. In the suit, the petitioner obtained an interim order in I.A.No.2921 of 2014, dated 16.12.2020 for injunction not to alienate or encumber the subject property till the disposal of the suit. The said order is presented before the second respondent for registration. However, it was orally refused and the second respondent did not accept it for registration.

4.The learned Additional Government Pleader appearing for the respondents, on instructions from the second respondent,



W.P(MD)No.30506 of 2024

would submit that when the order was presented for registration, to hold an enquiry to ensure that the decree had reached finality. He also relied upon the Judgment of this Court in **W.P(MD)No.5955 of 2014 dated 27.07.2016 [S.Kannan Vs. The Sub Registrar]** and this Court held that in order to protect the interest of true owners, it is necessary for the registering authority to hold an enquiry in the case of presentation of a decree or order of civil Court to ensure that the decree or order has reached finality and that the decree is not obtained by fraud or collusion. Though the registering authority has no jurisdiction to conduct an enquiry as to the real character of the decree, it is possible for the registering authority to require, the production of minimum documents and an affidavit from the concerned party so as to enable the registering authority to proceed further for the cancellation. When it is brought to its notice that the statements on oath made by the party concerned in the affidavit and presented before the registration officer, at the time of presentation of the decree or order of Court are false. Further, he submitted that the petitioner presented the order passed in I.A.No.2921 of 2014 dated 16.12.2020. The said order has been presented for registration after a period of four years. Therefore, without knowing the present status of the suit, it cannot be registered.



W.P(MD)No.30506 of 2024

WEB COPY

5.As per Section 23 of the Registration Act, 1908, a copy of the decree or the decree can be registered within a period of four months from the date of the order or decree when it becomes final. However, the period of limitation is no longer res integra since this Court has consistently held that the law of limitation will not apply when a Court decree is presented for registration. As it is a permanent record of the Court and to register the same, no limitation is prescribed. Further, the order which is objected for registration is passed in I.A.No.2921 of 2014 in O.S.No. 71 of 2014 on the file of V Additional District Court, Madurai, dated 16.12.2020, thereby restraining the defendants therein from alienating or encumbering the properties which are subjected for partition by the defendants therein till the disposal of the main suit. There is no evidence to show that the defendants therein have preferred an appeal as against the order passed in I.A.No.2921 of 2014 in O.S.No.71 of 2014 on the file of V Additional District Court, Madurai, dated 16.12.2020. Therefore, it becomes final. Though it is an interim order, it is a final decision thereby restraining the defendants therein not to alienate the subject property till the disposal of the suit. However, there is no evidence to show about the present status of the suit.



W.P(MD)No.30506 of 2024

WEB COPY

6.In view of the above, on the presentation of the order passed in I.A.No.2921 of 2014 in O.S.No.71 of 2014 on the file of V Additional District Court, Madurai, dated 16.12.2020 for registration, the second respondent is directed to conduct enquiry, after issuing notice to the defendants therein in the order passed in I.A.No.2921 of 2014 in O.S.No.71 of 2014 on the file of V Additional District Court, Madurai, dated 16.12.2020 and also after affording an opportunity of hearing to all the parties concerned and pass orders to register the same, within a period of four weeks from the date of receipt of the presentation of the order.

7.With the above direction, this Writ Petition is disposed of. There shall be no order as to costs.

16.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
ps



W.P(MD)No.30506 of 2024

WEB COPY

To

- 1.The District Registrar (Administration),
Registration Department,
Madurai.
- 2.The Sub-Registrar,
Joint – IV, Palanganatham,
Madurai.



WEB COPY



W.P(MD)No.30506 of 2024

G.K.ILANTHIRAIYAN, J.

ps

Order made in
W.P(MD)No.30506 of 2024

16.12.2024