

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.18805 of 2013

and

M.P.No.1 of 2013

Lakshmi

... Petitioner

/vs/

The Sub Registrar,
Valapady,
Salem District.

... Respondent

Prayer : - Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records with respect of the impugned proceedings passed by the respondent in the name of check slip dated 11.09.2012 and quash the same consequently directing the respondent herein to register the final decree proceedings dated 15.09.2011 passed in I.A.No.94 of 2006 in O.S.No.853 of 2002 on the file of the Principal District Munsif Court, Salem along with the report of the advocate commissioner and the plan.

For Petitioner :Mr.R.Nalliyappan

For Respondent :Mrs. M.E.Raniselvam, AGP

O R D E R

The petitioner's request to the respondent to register the final decree proceedings dated 15.09.2011 passed in I.A.No.94 of 2006 in O.S.No.853 of 2002 on the file of the Principal District Munsif Court, Salem, was rejected through a Check Slip dated 11.09.2012 on the ground that the presentation of the said document is barred by limitation prescribed under Sections 23 and 25 of the Registration Act, 1908.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondent.

3. The Sections 23 and 25 of the Registration Act, 1908 read as follows:

Sections 23: Time for presenting documents: 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 day on which it becomes final.

Section 25. Provision where delay in presentation is unavoidable:- (1) if, owing to urgent necessity or unavoidable accident, any document executed, or copy of a decree or order made, in (India) is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registrar, in cases where the delay in presentation does not exceed four months, may direct that, on payment of a fine not exceeding ten times the amount of the proper registration fee, such document shall be accepted for registration.

4. It is seen from a bare reading of the aforesaid provision that the time period prescribed under Section 23 is not mandatory in nature, but it is only directory. While considering any time limit, the respondent has to read the entire Act and after analysing the object of the Act, he should determine whether the time limit is mandatory in nature. Insofar as the Registration Act is concerned, for the purpose of Section 23, the Registrar has been given powers to condone the delay in presentation, if the delay is unavoidable. The learned counsel appearing for the petitioner submits that he had presented the said certified copy of the decree within time, since he had received the decree on 14.06.2012 and presentation for registration was on 06.09.2012, which is within the period of limitation.

5. The learned counsel appearing for the respondent, on the other hand, would submit that as per the Section 23 of the Registration Act, 1908, the date for reckoning the limitation commence from the date on which the decree was received.

6. The proviso to Section 23 of the Registration Act, 1908 states that a copy of the decree may be presented within four months from the day on which the decree or order was made, or where it is appealable, within four months from the day on which it becomes final.

7. Furthermore, the limitation prescribed under Section 23 should be read with in consonance with Section 25 of the Registration Act, 1908. Since they are only directory in nature, the check slip issued by the respondent is liable to be set aside. Accordingly, the check-slip dated 11.09.2012 is set aside and the writ petition is allowed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Sub Registrar,
Valapady,
Salem District.

+1cc to Mr.Nalliyapppan, Advocate, S.R.No. 69592
+1cc to the Government Pleader, S.R.No.70097

SSI (CO)
RS (25/01/2017)

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