

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2017

CORAM

THE HON'BLE Mr. JUSTICE M.DURAI SWAMY

W.P.No.14982 of 2017 and  
W.M.P.No.16229 of 2017

K.Avinashilingam

... Petitioner

Vs.

1.The Inspector General of Registration,  
No.100, Santhome High Road,  
Chennai - 600 028.

2.The Sub Registrar,  
Avinashi, Thiruppur.

... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorari calling for the entire records made in check slip dated 18.04.2017 issued by the 2<sup>nd</sup> respondent and quash the same and consequently direct the 2<sup>nd</sup> respondent to register the decree and judgment in O.S.No.484 of 2000 dated 10.11.2000 without insisting on the period of limitation enumerated in Section 23 of the Registration Act in the light of the order dated 07.03.2016 passed by this Court in W.P.No.8247 of 2016 within a stipulated time.

For Petitioner : Mr.N.Umapathi

For Respondents : Mr.A.N.Thambidurai,  
Special Government Pleader

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of certiorari calling for the entire records made in check slip dated 18.04.2017 issued by the 2<sup>nd</sup> respondent and quash the same and consequently direct the 2<sup>nd</sup> respondent to register the decree and judgment in O.S.No.484 of 2000 dated 10.11.2000 without insisting on the period of limitation enumerated in Section 23 of the Registration Act in the light of the order dated 07.03.2016 passed by this Court in W.P.No.8247 of 2016.

2.It is the case of the petitioner that when he presented the judgment and decree passed in O.S.No.484 of 2000 on the file

of the Sub Court, Tiruppur for registration before the 2<sup>nd</sup> respondent, the 2<sup>nd</sup> respondent refused to register the same for the reason that the judgment and decree dated 10.11.2000 have been presented for registration after a lapse of four months.

3.The learned counsel appearing for the petitioner submitted that in view of the order passed by this Court in W.P.No.8247 of 2016 dated 07.03.2016, the 2<sup>nd</sup> respondent is bound to register the document in view of the dictum laid down by this Court in the said Writ Petition. In Writ Petition in W.P.No.8247 of 2016, this Court held as follows:

"...

5.When the Writ Petition is taken up for consideration, learned counsel for the petitioners relied on a judgment of this Court in W.P.No.9352 of 2015 [B.Vijayan Vs. The District Registrar, Office of the District Registrar, Chennai South, Jeans Road, Saidapet, Chennai - 600 015 and another] dated 31.03.2015 wherein this Court observed as under in paragraph 8:

"8.It is noteworthy to point out that in the case of A.K.Gnanasekar [A.K.Gnanasekar Vs. The Joint-2 Sub-Registrar, Cuddalore-2] reported in 2007 (2) TCJ 68, wherein this Court has held that limitation prescribed for presenting documents does not apply to decree, as decree is a permanent record of Court and to register the case, no limitation can be prescribed."

6.The dictum laid down by this Court in the order, dated 31.03.2015 in W.P.No.9352 of 2015, based on the judgment of the Division Bench of this Court, reported in 2007 (2) TCJ 68 (cited supra), is squarely applicable to the facts of the present case. In my considered view, since there is an ex-parte decree and having waited for some time for filing of any appeal preferred till the period of expiry of the period to file appeal, the petitioners have approached the second respondent to register the said judgment and decree, dated 17.11.2014 passed in O.S.No.715 of 2014 and therefore, the respondents cannot deny to register the said judgment and decree.

7.At this stage, the learned Special Government Pleader appearing for the respondents submitted that since the decree is an ex-parte decree, whether the defendant-settlor has filed an application to set aside the said ex-parte decree and whether the said ex-parte decree was already set aside or not, is not known to the respondents, and therefore, it would lead to

problem if the said ex-parte is registered before the Registrar. Hence, he submitted that the mandamus as prayed for by the petitioners may not be issued.

8. In view of the above submissions made on either side, this Court is not inclined to give any positive direction, but directs the second respondent to consider the said representation, dated 08.02.2016 preferred by the petitioners, by conducting enquiry and after giving an opportunity of personal hearing to the petitioners and other necessary parties including the settlor, the second respondent is directed to pass orders and dispose of the said representation, on merits and in accordance with law, within a period of two weeks from the date of receipt of a copy of this order, in the light of the order of this Court, dated 31.03.2015 in W.P.No.9352 of 2015 (cited supra) and the judgment of the Division Bench of this Court, reported in 2007 (2) TCJ 68 (cited supra).

..."

4. In the above order, this Court, though had not given any positive direction, directed the 2<sup>nd</sup> respondent therein to consider the petitioner's representation for registering the document by conducting enquiry and after giving an opportunity of personal hearing to the petitioner and other necessary parties, including the parties to the documents.

5. In the order passed in W.P.No.16569 of 2016 dated 06.06.2016 also, this Court had given liberty to the petitioner to approach the District Registrar for condoning the delay in presenting the judgment and decree for registration.

6. Mr. A.N. Thambidurai, learned Special Government Pleader taking notice for the respondents submitted that following the ratio laid down by this Court in the Writ Petitions in W.P.Nos.8247 of 2016 and 16569 of 2016, the petitioner can be given liberty to approach the District Registrar seeking for condonation of the delay and the District Registrar may be directed to consider the petitioner's representation in accordance with law.

7. In view of the submissions made by the learned counsel on either side, following the orders passed in W.P.Nos.8247 of 2016 and 16569 of 2016, I give liberty to the petitioner to approach the District Registrar for condoning the delay in presenting the judgment and decree dated 10.11.2000 made in O.S.No.484 of 2000 on the file of the Sub Court, Tiruppur by submitting an application within a period of two weeks from the date of receipt of a copy of this order. The District Registrar, on

receipt of the application, shall entertain the same, if the papers are otherwise in order and pass orders in accordance with law, in the light of the observations made in W.P.Nos.8247 of 2016 and 16569 of 2016 within a period of four weeks from the date of presentation of the application.

8.With these observations, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

va

To

1.The Inspector General of Registration,  
No.100, Santhome High Road,  
Chennai - 600 028.

2.The Sub Registrar,  
Avinashi, Thiruppur.

+1cc to Mr.N.Umapathy, Advocate, S.R.No.42642  
+1cc to the Government Pleader, S.R.No.42735

W.P.No.14982 of 2017 and  
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VSN(CO)  
RS(20/06/2017)

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