

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2018

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Writ Petition No.23007 of 2018

K.Thangavel

... Petitioner

Vs

The Sub Registrar,  
The Sub Registrar Office,  
Chennimalai,  
Erode District.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order of the rejection of Check Slip, dated 26.12.2016 on the file of the respondent, quash the same and to direct the respondent to register the compromise decree dated 30.11.2015 in favour of the petitioner which was presented before the respondent dated 26.02.2016 within the stipulated time fixed by this Court.

For Petitioner :Mr. R.Murugabharathi

For Respondent :Mr. T.M.Pappiah,  
Special Government Pleader (Registration)

O R D E R

This writ petition has been filed by the petitioner to quash the order dated 26.12.2016 by the respondent and consequently direct the respondent to register the compromise decree dated 30.11.2015 in favour of the petitioner, which was presented before the respondent dated 26.02.2016, within the stipulated time fixed by this Court.

2. The brief facts, in a nutshell, are thus:-

The petitioner filed a Partition Suit in O.S.No.254 of 2015 on the file of the learned Sub Judge, Dharapuram. The said partition suit ended in compromise and a compromise has been arrived at. Recording the terms of the compromise, compromise decree was passed. The petitioner has applied for a copy of compromise decree for the purpose of registration and the same

was received on 26.02.2016. However, some mistakes have been crept-in in the "B" Schedule property in the Compromise Decree. Hence, he filed an amendment petition in I.A.No.759 of 2016 in O.S.No.254 of 2015 and the same was ordered on 02.11.2016. Thereafter, the petitioner, has presented the original final decree before the respondent for registration on 26.12.2016. However, the respondent refused to register the compromise decree on the ground that it was presented beyond the period of four months and passed the order dated 26.12.2016, rejecting the check slip. Aggrieved over the same, the petitioner is before this Court.

3. According to the learned counsel appearing for the petitioner, the limitation for the registration of the decree will run from the date of release of the decree and not from the date of the decree. The learned counsel also relied upon the decision reported in AIR 2009 Delhi 29 (Shri Gurjeet Singh v. Sarabjeet Singh and ors) in support of his said submission.

5. This Court heard the learned Special Government Pleader appearing for the respondent and produced the materials on record.

6. Section 23 of the Registration Act stipulates four months outer time limit and no doubt that the same would run only from the date of its release.

7. A perusal of the decision reported in AIR 2009 Delhi 29 (referred to supra) would go to show that the date of execution of decree would be the date on which it is actually signed and is different from the date of decree and as per Section 23 of the Act, the time for registration will run only from the date of release of the decree. In the said decision, in paragraphs 7 to 9, it has been held as follows:-

"7. Applying the same principles to the present case, the Defendant No. 1, even after the day on which the decree was made could not have presented the decree for registration before 3rd May, 2008 when the same was released by this court. The defendant no.1 ought not to suffer and hence, for the purposes of section 23 of the Registration Act, the time for registration will run only from the date of release of decree.

8. Accordingly, Sub Registrar V, Mehrauli, New Delhi, is directed to register the decree, subject to other objections, if any. Let the copy of this order be given dasti to the defendant no.1.

9. The Registry to also, in future, while making the decree and/or releasing decree for registration, to mention endorse thereon, the date

of making/signing thereof and the date of release thereof, to enable the Registrar concerned to accordingly compute the period of registration."

8. In view of the above, the impugned order is set-aside and the matter is remitted back to the respondent to pass appropriate orders, within a period of two weeks from the date of receipt of a copy of this order, keeping in mind that the time would run only from the date of release of the decree.

9. With the above direction, this writ petition is disposed of. No costs.

Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ms  
To

The Sub Registrar,  
The Sub Registrar Office,  
Chennimalai,  
Erode District.

+lcc to Mr.R.Muruga Bharathi, Advocate Sr.64915  
+lcc to the Government Pleader Sr.65826

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srg 12/10/2018

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