



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.04.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No.5108 of 2018

A1362 Meenakshi Co-operative Building Society Ltd.,
Through its Secretary,
Su.Sivasankaran,
D.No.21, Vadugakaval Kooda Street,
Madurai.

... Petitioner

Vs.

1.The District Registrar,
District Register Officer,
Madurai District (South)
Madurai.

2.The Sub-Registrar,
No.1, Joint Sub Registrar,
District Register Office,
Madurai (South)
Madurai.

3.The Sub-Registrar,
No.2, Joint Sub-Registrar,
District Register Office,
Madurai (South),
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records on the file of the respondent No.2 relating to the impugned order passed by the respondent No.2 in Na.Ka.No.8396/R1/2017 dated 29.01.2018 and quash the same as illegal and also directing the respondents to include the details of the decree and Judgments which were in favour of the petitioner's society as per representation dated 21.11.2017, 23.11.2017, 30.11.2017, 16.12.2017 and 2.1.2018 in the Encumbrance Certificate of land, bearing Survey Nos.136/4A, 136/2, 318/2, 134/4N 1A2, 320/1A1, 320/1A3, 320/1A5, 320/1A13, 320/1A38 situated at Perunkudi Village, Madurai South Taluk, Madurai District.

For Petitioner
For Respondents

: Mr.S.J.Chakkaravarthy
: Mr.P.Gunaseelan Muthiah
Additional Government Pleader

ORDER

The main ground on which the impugned order came to be passed is that there is limitation prescribed under Section 23 of the Limitation Act for the purpose of registration and as such the petitioner is not entitled to seek for inclusion of the details of the Decrees and Judgments obtained by him.

2. This Court on an identical proposition had an occasion to deal with the point of limitation prescribed under Section 23 of the Registration Act and the relevant portion of the said orders is as follows:

"6. This Court, by an order dated 31.03.2015 passed in W.P.No.9352 of 2015 has held that the limitation prescribed under Section 23 of the Registration Act, will not be applicable to a decree, since it is a permanent record of court and for the purpose of registration, no limitation can be prescribed. The relevant portions of the Judgment in Paragraph Nos.8 to 10, which are extracted hereunder:

"8. It is note worthy to point out that in the case of A.K.Ganesan reported in 2007 (2) TCJ Page 68(Madras), 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 limitaiton can be prescribed.

9.Be that as it may, in the instant case, the following facts would be relevant to consider as to whether the check-slip issued by the second respondent was valid.

10. The Sub Court passed a decree on 28.03.2014 and the petitioner filed copy application on 10.04.2014 and the same was delivered to the petitioner on 04.06.2014. Immediately, within six days, the petitioner approached the Registrar to register the decree and also made request by registered post and the said representation dated 11.06.2014 was received by the 2nd respondent on 13.06.2014. Therefore, the said date should be taken to be the date of first presentation of the decree for Registration, though the representation was made by registered post. The learned counsel for the petitioner submitted that the necessity to send the representation by registered post arose, since the 2nd respondent did not entertain the document when he approached the 2nd respondent in-person. After the representation was received by the 2nd respondent, the 2nd respondent did not pass any orders either accepting the stand taken by the petitioner or rejecting the same. Therefore, the petitioner filed a Writ Petition before this Court in W.P.No.34989 of 2014 on 07.12.2014 and the said writ petition was disposed of on 28.01.2015, after which the check-slip dated 26.02.2015 has been issued. Therefore,



for all purposes limitation has to be computed from 11.06.2014, when the petitioner approached the respondent for registering the civil Court's decree. Therefore, the petitioner's case is not barred by the period of limitation prescribed under section 23 of the Act."

The above proposition is squarely applicable to the facts of the present case. It would be useful to add to the above proposition that the limitation prescribed under Section 23 of the Limitation Act is not mandatory in nature but only directory".

3. The above proposition is squarely applicable to the facts of the present case and as such the second respondent is not justified in rejecting the petitioner's request. In this background, the impugned order in Na.Ka.No.8396/R1/2017 dated 29.01.2018 is quashed. Consequently, the petitioner is granted liberty to approach the respondents 2 and 3 seeking for inclusion of the details of the Judgment and Decrees obtained in his favour and on receipt of such representation, the respondents 2 and 3 shall consider the same favourably and include the details of the Judgments and Decrees pointed out by the petitioner herein in his representation as encumbrance to the property in Survey Nos.136/4A, 136/2, 318/2, 134/4N 1A2, 320/1A1, 320/1A3, 320/1A5, 320/1A13, 320/1A38 situated at Perunkudi Village, Madurai South Taluk, Madurai District. Such an exercise shall be completed within a period of two weeks from the date of receipt of the representation.

4. With the above observation, this writ petition stands allowed. No costs.

Sd/-

Assistant Registrar(CS-III)

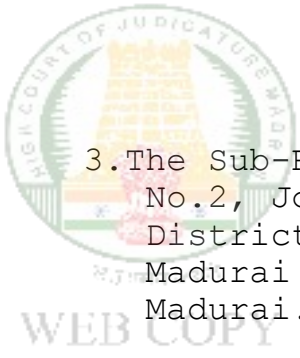
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Sub Assistant Registrar

To

1.The District Registrar,
District Register Officer,
Madurai District (South)
Madurai.

2.The Sub-Registrar,
No.1, Joint Sub Registrar,
District Register Office,
Madurai (South)
Madurai.



3.The Sub-Registrar,
No.2, Joint Sub-Registrar,
District Register Office,
Madurai (South),
Madurai.

+1cc to M/S.S.J.Chakkaravarthy, Advocate SR.No. 61119

W.P. (MD) No.5108 of 2018
12.04.2018

pnn
JM/KKR/SAR 4/03.05.2018/4P/5C