



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 04.11.2019	Pronounced on:06.11.2019
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Coram::

The Honourable Dr.Justice G.Jayachandran

Writ Petition No.29508 of 2019

Jeevareka,
W/o.Vedachalam,
No.27/10, Pookara Street,
Vadapalani,
Chennai - 600 026.

... Petitioner

/versus/

1. The District Registrar Chennai South
(Guindy) Block No.3, Sipcot Election Complex,
Thiru-Vi-Kha Industrial Estate,
Labour Colony,
Chennai - 600 032.

2. The Sub-Registrar,
Virugambakkam,
Chennai.

.... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified Mandamus, to call for the impugned order of the 1st and 2nd respondent No.10991/A2/2019, dated 05.09.2019 and TP/66402675/2019, dated 02.07.2019 respectively and to direct the 2nd respondent to register the final decree dated 20.10.2017 passed in C.S.No.1049 of 2005 on the file of the High Court, Madras engrossed in the non-judicial stamp papers on 05.04.2018 and 11.04.2018 respectively and presented for registration on 02.07.2019 and pass orders.

For Petitioner : Mr.M.Balasubramanian,

For R1 & R2 : Mr.T.M.Pappiah,
Special Government Pleader

O R D E R

Heard the Learned Counsel for the Petitioner and the Learned Special Government Pleader for the Respondents 1 & 2.

2. The Petitioner herein is aggrieved by the refusal of registering the final decree passed by this Court in C.S.No.1049 of 2005 on 20.10.2017 on the ground that under Section 23 of the Registration Act, Court decree has to be registered within four months, from the date of decree. Whereas, the request of the petitioner on 02.07.2019 to register the decree passed on 20.10.2017 is beyond the time prescribed. The impugned order of the Sub-Registrar on 02.07.2019 refusing to register the Court decree was appealed before the District Registrar by the petitioner. The District Registrar, vide impugned proceedings No.10991/m2/2019, dated 05.09.2019, has confirmed the order of the Sub-Registrar, after referring and extracting Section 23 of the Tamil Nadu Registration Act. The District Registrar has also directed the petitioner to approach the Civil Court for remedy if he is aggrieved by his order.

3. According to the petitioner, a partition suit was filed against her brother in C.S.No.1049 of 2005. After prolong trial, final decree was passed on 20.10.2017. The Court permitted the parties to sell 'B' schedule property and apportioned the same. Pursuant to that, they have entered into an agreement and received the advance. Since the intending purchaser insisted for registration of the Court decree the petitioner approached the Sub-Registrar, Virugambakkam, but he declined to register the Court decree on the ground of delay. The said rejection order dated 02.07.2019, was appealed before the 1st respondent/District Registrar, who has not considered the reason given for delay and confirmed the order of the Sub-Registrar.

4. The Learned Counsel appearing for the Petitioner would submit that, in an identical situation, this Court in Rasammal Vs. Pauline Edwin and others reported in (2011) 2 MLJ 57, referring Section 25 of the Registration Act has observed that, Registrar has given the discretion under Section 25 of the Act to decide whether there has been an urgent necessity or unavoidable delay which led to the delay in presentation of the document for registration. Certainly, it is not the domain of the Civil Court in a suit filed under Section 77 of the Act to sit an Appeal over its decisions in such discretionary matter. The Registrar has power to condone the delay on collection of condonation fees. There is nothing in the Registration Act to prevent a party from applying to the Registrar to excuse the delay.

5. This Court is also of the view that, when there is no statutory bar for the Registrar to accept the document beyond the time prescribed, if the reason stated for the delay is satisfactory, a pedantic interpretation of Section 23 of the Registration Act, will be detrimental to the general public. In this case, a partition suit between the sister and brother had been culminated after 12 years and thereafter, certified decree copy has been received by the parties on 11.04.2018. The decree has been presented for Registration on 02.07.2019.

6. Strictly speaking, the combined reading of Sections 23 & 25 indicates that, the document has to be accepted for Registration if it is presented within 4 months, from the date of its execution and period may be extended for another four months on payment of fine. Therefore, in this case, the limitation starts only from the date on which certified copy issued to the petitioner i.e., 11.04.2018. The limitation of 8 (4 + 4) months will get expired on 10.12.2018, whereas, the document presented on 02.07.2019, with delay of less than eight months. The petitioner has stated out sufficient reason for the delay.

7. Therefore following the judgment of this Court cited above, the order of the 1st respondent/District Registrar, dated 05.09.2019, confirming order of the 2nd respondent/Sub-Registrar, Virugambakkam, dated 02.07.2019 is hereby set aside. The 2nd respondent is directed to accept the document (final decree passed in C.S.No.1049 of 2005) and register the same after collecting necessary stamp duty, registration charges and condonation fees/fine.

8. Accordingly, the Writ Petition is disposed of. No costs.

s/d-

Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

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To

1. The District Registrar Chennai South
(Guindy) Block No.3, Sipcot Election Complex,
Thiru-Vi-Kha Industrial Estate,
Labour Colony,
Chennai - 600 032.

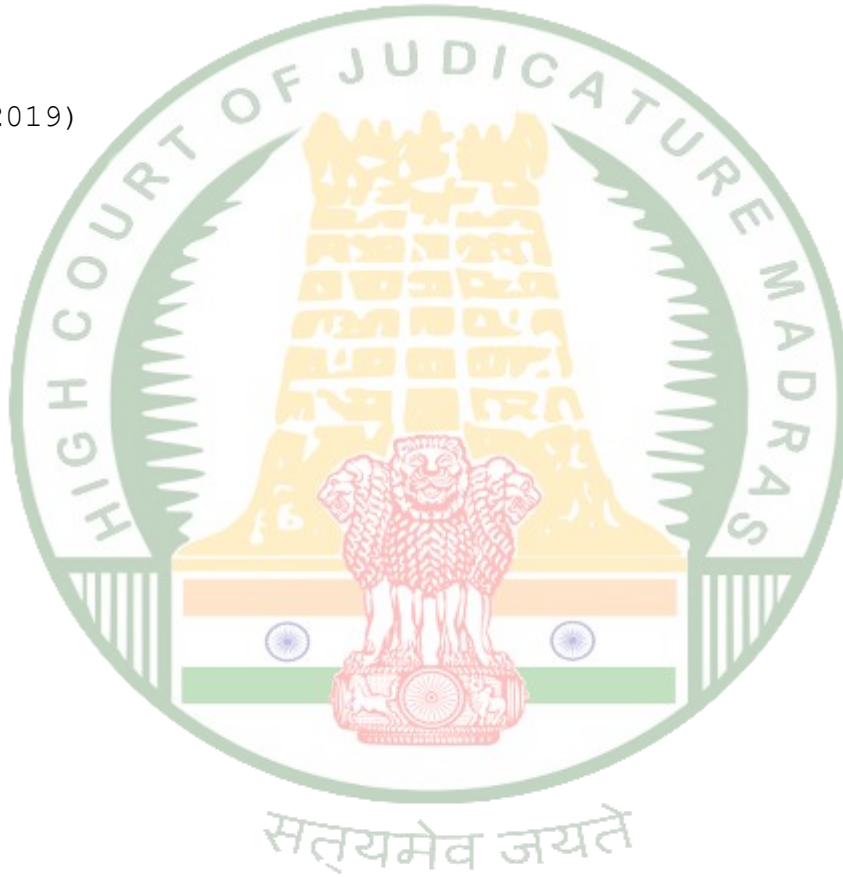
2. The Sub-Registrar,
Virugambakkam, Chennai.

+1 CC to Govt. Pleader sr 93068.

+1 CC to Mr.M.Balasubramanian, Advocate sr 92066.

Writ Petition No.29508 of 2019

SJ(CO)
SP(27/12/2019)



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