

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:14.11.2019

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.32094 of 2019

S.A.Kathiresan

.. Petitioner

/versus/

Sub Registrar,
Thondamuthur Sub Registrar Office,
Thondamuthur,
Coimbatore District.

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the order of the respondent dated 31.10.2019 in RFL/Thondamuthur/4/2019 and quash the same and consequently direct the respondent to register the compromise decree dated 24.07.2018 in O.S.No.111 of 2006 on the file of the Principal Subordinate Judge, Coimbatore.

For Petitioner : Mr.Deepanuday

For Respondent : Mr.T.M.Pappiah, Spl.G.P.

ORDER

By consent, the writ petition is taken up for final disposal at the admission stage itself.

2. Heard Mr.Deepanuday, learned counsel appearing for the petitioner and Mr.T.M.Pappiah, learned Special Government Pleader, who takes notice for the respondent.

3.The compromise decree entered between the petitioner and others sought to be registered by the petitioner before the Sub Registrar, Thondamuthur. However, the same was returned with check slip stating that as per Sections 23 and 25 of the Indian Registration Act, 1908, any Court decree should be registered within a period of four months from the date of its execution and the said time limit is extendable by another four months only. Whereas the compromise decree dated 24.07.2018 has been presented by the petitioner for registration only on 31.10.2019.

Hence, he is not accepting the document for registration due to barred by limitation.

4. In this connection, this Court has already held in Writ Petition No.30293 of 2019, dated 11.11.2019 (Vellaiammal vs. The Sub-Registrar, Sub Registrar's Office, Mecheri, Mettur Taluk, Salem District) that the Registration of the Court decree is not a mandatory requirement under the Statute and when the Said Act does not bar the authorities to condone the delay beyond the limitation period, then on collecting necessary condonation fees or fine, whatever prescribed under the Act, the Registration Authority can accept the document, if the delay is reasonably explained.

5. This Court has also indicated that if the Sub Registrar is of the opinion that due to inordinate delay in presenting the decree a possibility of decree being incapable of execution or barred by limitation, those facts can be verified by the appropriate authority.

6. In view of the above legal position, the order of the Sub Registrar, which is impugned in this writ petition is quashed. The Sub Registrar is directed to consider the explanation given by the petitioner herein for the delay in presenting the document and after making necessary enquiry, shall register the same on collecting the registration fees, stamp duty and condonation fine, if any.

7. Accordingly, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

To:

1. The Sub Registrar,
Thondamuthur Sub Registrar Office,
Thondamuthur, Coimbatore District.

2. The Principal Subordinate Judge, Coimbatore.

+1 cc to M/s. Deepan Uday, Advocate Sr.No. 95648

+1 cc to The Government Pleader Sr.No. 95563

AKM/16.12.19/2P-5C /

W.P.No.32094 of 2019