

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2020

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.No.35745 of 2019

Sakkamma

... Petitioner

Vs.

1. The District Registrar,
Registration Department,
Krishnagiri-635 001.

2. The Sub-Registrar,
Registration Department,
Soolagiri-635 117.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned Refusal Check Slip dated 09.12.2019 on the file of the Second Respondent herein, quash the same and consequently direct the Second Respondent herein to register the Decree dated 24.02.2017 passed in A.S.No.02 of 2010 on the file of the Sub-Court, Hosur.

For Petitioners : Mr. K. Govi Ganesan
For Respondents : Mr. T.M. Pappiah,
Special Government Pleader

ORDER

Heard Mr. K. Govi Ganesan, Learned Counsel for the Petitioner and Mr. T.M. Pappaiah, Learned Special Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The father of the Petitioner, viz., Sekharalappa @ Sakkaralappa, had transferred the lands in S.F.Nos.112/2, 3, 5, 6, 7, 14 and 113/4 admeasuring about 3.89 acres in Maruthadapalli Village, Soolagiri Taluk, Krishnagiri District in favour of the Petitioner by Settlement Deed dated 19.12.2002 registered as Document No. 1939 of 2002 in the office of the Second Respondent. After the demise of her father, the brother of the Petitioner had filed a suit in O.S. No. 124 of 2003 against the Petitioner on the file of the District Munsif Court, Hosur for setting aside the aforesaid Settlement Deed executed

in her favour and it was dismissed by judgment and decree dated 10.09.2009. The said judgment and the decree was confirmed in an appeal in A.S. No. 02 of 2010 by judgment and decree dated 24.02.2017 passed by the Sub Court, Hosur. According to the Petitioner, she had presented the aforesaid judgment and decree of the Appellate Court for registration before the Second Respondent, which was refused on the ground that it was barred by limitation under Section 23 of the Registration Act, 1908. Aggrieved thereby, the present Writ Petition has been filed.

3. Learned Counsel for the Petitioner relying on the decision of the Hon'ble Division Bench of this Court in S. Sarvothaman Vs. Sub-Registrar, Oulgaret, Puducherry [Judgment dated 07.02.2019 in W.A. No. 336 of 2019] contends that limitation prescribed under Section 23 of the Registration Act, 1908 would not be applicable to a decree of the Civil Court as it is not compulsorily registerable under Section 17 of the Registration Act, 1908, and as such, the Second Respondent has grossly erred in refusing to register the document presented by the Petitioner.

4. Learned Special Government Pleader appearing for the Respondents contends that inasmuch as limitation period for registration of Court decree has been expressly provided in the statute, there is no scope for the Petitioner to have any grievance when the presentation of the document is beyond the stipulated time limit.

5. On a careful examination of the rival submissions viz-a-viz the aforesaid decision of this Court which has been cited, it is apparent that the limitation period for registration of Court decree would be applicable only when it falls under the category of compulsorily registerable documents and not otherwise. Even if limitation is attracted, the Registering Authority performing quasi-judicial functions has to ascertain the relevant dates for reckoning the period of limitation in terms of Sections 23 and 25 of the Registration Act, 1908, so as to arrive at a conclusion whether the Court decree has been presented for registration within time. In the present case, the Registering Authority has not carried out that exercise, but straightaway proceeded to issue the checkslip as if the presentation of the document was time-barred. In such circumstances, it is not possible to sustain the impugned order and it stands set aside and the matter is remitted to the Second Respondent to consider the matter afresh in the light of the aforesaid observations made by this Court. The Petitioner shall immediately re-present the document for registration before the Second Respondent, who shall, after affording an opportunity of personal hearing to the Petitioner, decide the matter on merits and in accordance with law within a period of one month from the date of re-

presentation of that document.

6. This Writ Petition is disposed on the aforesaid terms. No costs.

Sd/-
Assistant Registrar

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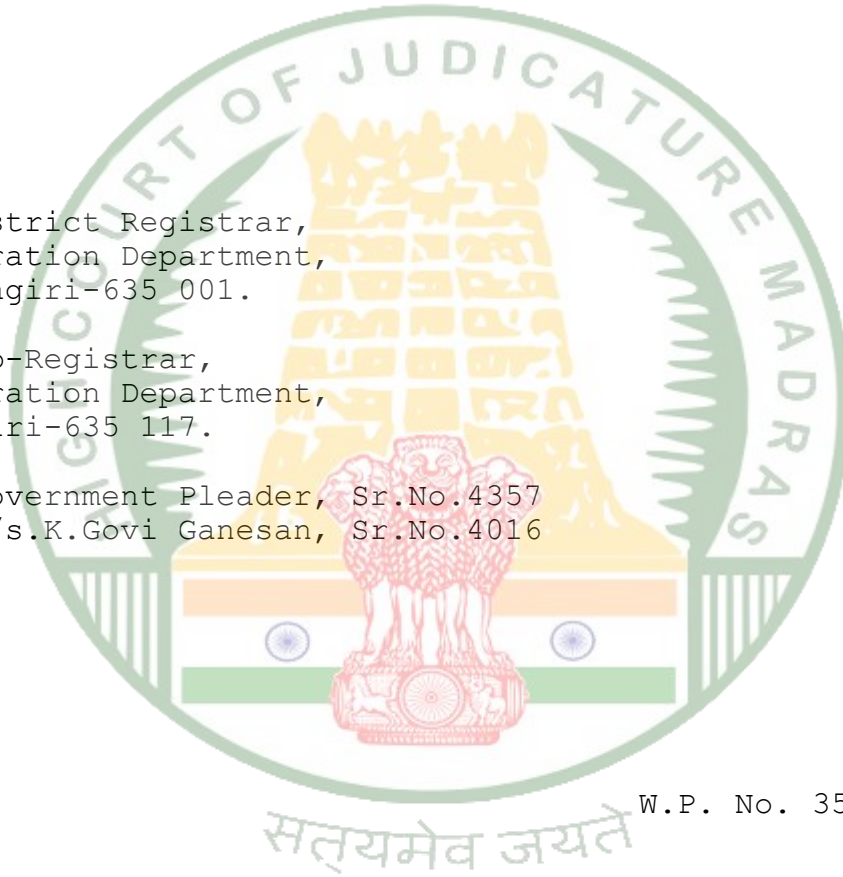
Sub Assistant Registrar

vjt

To

1. The District Registrar,
Registration Department,
Krishnagiri-635 001.
2. The Sub-Registrar,
Registration Department,
Soolagiri-635 117.

+1cc to Government Pleader, Sr.No.4357
+1cc to M/s.K.Govi Ganesan, Sr.No.4016



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SAI (CO)
GS (09/06/2020)

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