



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.02.2020

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THE HONOURABLE MR.JUSTICE **S . S . SUNDAR**

W.P. (MD) No. 631 of 2020

P.Gandhi @ Gandhimathi

... Petitioner

vs.

The Sub Registrar,
Sub Registrar's Office,
Aravakurichi-639 201,
Karur District.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondent to register the judgment and decree in O.S.No.590 of 2000, dated 07.03.2001 on the file of the Additional District Munsif Court, Karur, in the light of the judgment reported in **2019 (3) MLJ 517**.

For Petitioner :Mr.V.Karthikeyan

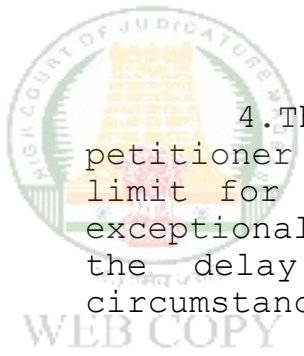
For Respondents :Mr.V.Anand
Government Advocate

ORDER

This Writ Petition is filed for issuing a Writ of Mandamus to direct the respondent to register the judgment and decree in O.S.No.590 of 2000, dated 07.03.2001 on the file of the Additional District Munsif Court, Karur, in the light of the judgment reported in **2019 (3) MLJ 517**.

2.By consent of both parties, the Writ Petition is taken up for final disposal at the stage of admission itself.

3.The petitioner has filed a suit in O.S.No.590 of 2000 against her husband, by name, Mr.M.Ponnusamy for granting maintenance and for creating charge over the properties of her husband. It is further stated that a compromise was arrived at and the suit was dismissed based on the compromise by a judgment and decree, dated 07.03.2001. The petitioner, nearly after a period of 18 years, gave representation, dated 20.08.2019, to the respondent, enclosing the copy of the decree for registration.



4.The petitioner states that the respondent informed the petitioner that as per Section 23 of the Registration Act, the time limit for registering the decree is four months and that even in exceptional cases, where there is delay, it cannot be condoned, if the delay is more than four months. It is in the said circumstances, the petitioner has approached this Court.

5.The issue is no more *res integra*, as this Court in few judgements has held that the Court decree is not compulsorily registrable and that the limitation prescribed under the Act is not attracted for registering a decree and registration and presentation of the decree from the date of obtaining of certificate copy will be well within the time limit prescribed under Section 23 of the Act. The judgment of learned Single Judge reported in the case of **S.Sarvotham vs Sub Registrar, Oulgaret, Pondichery**, reported in **2019 (3) MLJ 517** was also followed in the case of **S.Kangammal vs The Sub Registrar, Virudhunagar District**, in W.P.(MD)No.26399 of 2019, dated 12.12.2019.

6.The respondent has filed counter affidavit and stated in para 4 and 5, which is extracted as follows:

"4.I respectfully submit that further as per section 25 of the Registration Act time limit granted to register a document or decree only 8 months. Hence, the said document was not registered in our office. Now, I came to know about the order of this Hon'ble Court reported in 2019 (3) MLJ 517 giving direction to the registration authority to register decree of the Court without any time limit. I respectfully submit that the said the pronouncement of this Hon'ble Court was brought to my notice only on receipt of the copies filed by the petitioner before this Hon'ble court. Hence the reliance placed by the petitioner is known to me only after receipt of the copies of the writ petition. I respectfully submit that the petitioner has not brought the said order of this Hon'ble court to my notice while making her representation. Hence, the said decree was considered as per Section 23 and 25 of the Registration Act.

5.I respectfully submit that the grounds raised by the petitioner in the writ petition are available to her on the same was not brought to the notice of this respondents at the time of presenting of her representation dated 20.08.2019. hence, the prayer of the petitioner to issue a writ of mandamus is not maintainable. I respectfully submit that as the order of this Hon'ble Court reported in 2019 (3) MLJ 517 was not brought to notice this office, the request of the petitioner was not considered. I respectfully submit that if the petitioner has produced or referred the pronouncement of this Hon'ble Court in respect Section 23



to 25 of the Registration Act, her request would be considered appropriately. It is very clear from the representation itself, that she has not referred the ruling of this Hon'bel Court to the respondent, hence, the issue of Writ of Mandamus is will not lie."

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7. Merely because, the judgment of this Court has not been shown to the respondent, the respondent cannot contend that a Writ of Mandamus would not lie, as the issue has been settled by this Court and this Court has consistently taken the view that bar of limitation under Section 23 of the Act is not applicable to Court Decree. Hence, the petitioner is entitled to succeed. Accordingly, this Writ Petition is allowed and the respondent is directed to register the judgment and decree in O.S.No.590 of 2000, dated 07.03.2001 in the light of judgment of this Court earlier and the order in the present Writ Petition within a period of three weeks from the date of receipt of a copy of this order. The petitioner is directed to present the decree within a period of one week from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

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Sub Assistant Registrar(CS)

cmr

To

The Sub Registrar,
Sub Registrar's Office,
Aravakurichi-639 201, Karur District.

+2 CC to M/s.V.KARTHIKEYAN, Advocate (SR-5048[F] dated 06/02/2020)

+1 CC to M/s.SPL GP (SR-5129[F] dated 06/02/2020)

W.P.(MD)No.631 of 2020
05.02.2020

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