



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**DATED: 08.10.2020
CORAM**

WEB COPY

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.13743 of 2020

V.Ganeshan

... Petitioner

-Vs-

1.The District Registrar,
District Registrar Office,
District Collector Office,
Dindigul, Dindigul District.

2.The Sub-Registrar,
Registrar Office,
Chinnalapatti, Dindigul District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned refusal check slip No.RFL/Chinnalapatti/31/2019 issued by the second respondent herein dated 24.09.2019 and quash the same as illegal and direct the second respondent to register the settlement deed presented before the second respondent office dated 23.09.2019.

For Petitioner : Mr.S.Sarvagan Prabhu

For Respondents : Mr.K.Sathya Singh,
Additional Government Pleader.

ORDER

The petitioner has come forward with this Writ Petition to quash the impugned refusal check slip issued by the second respondent dated 24.09.2019 and to direct the second respondent to register the settlement deed presented before the second respondent office dated 23.09.2019.

2.According to the petitioner, the properties situated at Jambuthripatti Village, Nilakottai Taluk, Dindigul District in S.Nos.180/6, 180/7, 180/8, 183/3C2, 183/3D, 183/3E, 183/3F, totally measuring about 3 Acres 62 ½ Cents, are ancestral and joined family properties. While so, on 13.03.2002, through registered partition deed, the properties were partitioned among the family members of the petitioner. After execution of the partition deed, his father



had filed a suit in O.S.No.461 of 2013 before the Principal Sub Court, Dindigul for a declaration to declare the above said partition deed dated 13.03.2002 as null and void. The same was dismissed on 25.07.2016. In the meantime, his father expired on 13.03.2019 and his mother also died. After their death, the petitioner and his younger brother are entitled for equal half share. Therefore, enclosing all the relevant documents and the decree in O.S.No.461 of 2013, the petitioner has presented a settlement deed dated 23.09.2019 before the second respondent to settle the properties in the name of his wife, namely, Valarmathi, where the second respondent has refused to register the same and issued the impugned refusal check slip dated 24.09.2019, on the ground that as per the Registration Act, 1908, the decree has to be registered within four months, hence, returned for barred by limitation. Challenging the same, the present Writ Petition has been filed seeking aforesaid relief.

3.A perusal of the impugned order dated 24.09.2019 would disclose that the second respondent has refused to register the document on the ground that the request is time barred and in view of the law limitation, the document cannot be registered. For the sake of convenience, Sections 23 and 25 of the Registration Act, 1908, are extracted hereunder:-

"23.Time for presenting documents.- Subject to the provisions contained in Sections 24, 25 and 26, no document other than a will shall be accepted for registration unless presented for that purpose to the proper office within four months from the date of its execution.

Provided that a copy of a decree or order may be presented within four months from the day on which the decree or order was made, or, where it is appealable, within four months from the day on which it becomes final.

25.Provision where delay in presentation is unavoidable.-

(1)If, owing to urgent necessity or unavoidable accident, any document executed, or copy of a decree or order made, in India is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registrar, in cases where the delay in presentation does not exceed four months, may direct that, on payment of a fine not exceeding ten times the amount of the proper registration fee, such document shall be accepted for registration.

(2)Any application for such direction may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate."

4.It is no doubt true that limitation will apply in other cases but not in respect of the Court decree, wherein compromise decree has been passed. The compromise decree is permanent on



record of Court and hence, the contention of the respondents that in terms of Sections 23 and 25 of the Registration Act, 1908, which are extracted supra, the document cannot be registered, cannot be accepted. In the light of the decision of this Court in the case of **Sarvothaman Vs. Sub-Registrar, Oulgaret, Pondicherry**, reported in **2019 (2) CWC 314**, the law of limitation will not apply when the Court decree is presented for registration. The law of limitation for presenting the document does not apply to a decree. It is permanent record and it has to be registered and no limitation is prescribed. In the light of the judgment and decree, which has been presented for registration, the document will have to be registered. Hence, this Writ Petition stands allowed and the impugned order of the second respondent dated 24.09.2019 is set aside. The registration shall be done at the earliest, if there are no other legal impediments. No costs.

Sd/-

Assistant Registrar (Writs)

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/ /2020

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The District Registrar,
District Registrar Office,
District Collector Office,
Dindigul, Dindigul District.
- 2.The Sub-Registrar,
Registrar Office,
Chinnalapatti, Dindigul District.

+1 CC to M/s.Special Govt.Pleader (SR-19578[F] dated 09/10/2020)

Order made in
W.P. (MD) No.13743 of 2020
08.10.2020

Myr

SDS (19.10.2020) 3P-4C
<https://hcservices.ecourts.gov.in/hcservices/>