



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.10.2020

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.14326 of 2020

S.Maruthai

... Petitioner

-Vs-

The Sub-Registrar,
Office of the Sub Registrar,
Joint Sub Registrar Office,
Thanthonimalai,
Karur District.

... Respondent

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the respondent herein to register the decree dated 27.06.2016 passed in O.S.No.25/2012 in respect of the property comprised in Survey No.920, V.O.C.Street, Karur, on the basis of the petitioner's representation dated 03.09.2020 within the time stipulated by this Court.

For Petitioner : Mr.M.Bindran
For Respondent : Mr.K.Sathya Singh,
Additional Government Pleader

ORDER

The petitioner has come forward with this Writ Petition to direct the respondent herein to register the decree dated 27.06.2016 passed in O.S.No.25/2012 in respect of the property comprised in Survey No.920, V.O.C.Street, Karur, on the basis of the petitioner's representation dated 03.09.2020 within the time stipulated by this Court.

2. According to the petitioner, one Pal Vadyar was the owner of the land comprised in Survey No.920 situated at V.O.C.Street, Karur, as far as 70 years ago. After the death of the said Pal Vadyar the petitioner's father occupied the said property and was in peaceful possession and enjoyment of the same. After the demise of his father, the petitioner became the absolute owner of the same and the petitioner is in peaceful possession and enjoyment of the said property. While so, during 2012, one Saitu, who has no right or interest over the said property has started claiming the said property and he filed a suit in O.S.No.25 of 2012 before the District Court, Karur for a permanent injunction claiming



right over the said property. The said suit has been dismissed for default on 27.06.2016. However, after a lapse of one year period, the said Saitu died and thereafter, no further proceedings were initiated by any one/legalheirs. Further, the said IA has been dismissed by the Court on 19.08.2019 and thus the litigation stand closed. But, due to illness, the petitioner came to know about the dismissal of the Suit in the month of February, 2020 and he obtained the copy of the decree. Thereafter, due to sudden outbreak of COVID-19, the petitioner could not present the relevant documents before the Registrar within the prescribed period of four months as per Section 23 of the Registration Act and he presented only on 03.09.2020. But the said application was not considered so far. Hence, the present Writ Petition has been filed seeking the 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



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. The registration shall be done at the earliest, if there are no other legal impediments. No costs.

Sd/-

Assistant Registrar (A.S)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

PJL

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

The Sub-Registrar,
Office of the Sub Registrar,
Joint Sub Registrar Office,
Thanthonimalai,
Karur District.

+1 CC to the SPL GP (SR-20150[F] dated 15/10/2020)

W.P. (MD) No.14326 of 2020
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SMV(CO)
CS(09.11.2020) 3P 3C