



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2020

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THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.(MD)No.16863 of 2020

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... Petitioner

-Vs-

1. The Inspector General of Registration,
Door No.100, Santhome High Road,
Foreshore Estate,
Pattinapakkam,
Chennai.
2. The Joint Sub-Registrar No.1,
Madurai North,
Integrated Complex of Registration Department,
TNAU Nager,
Rajakampeeram
Y.Othakadai, Madurai-625 107.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Mandamus directing the second respondent to register the certified copy of the compromise decree dated 27/04/2014 passed in the appeal in A.S.(MD).No.22 of 2009 on the file of the Madurai Bench of Madras High Court on payment of necessary stamp duty and necessary registration charges and without insisting on the period of limitation under Section 23 of the Registration Act, 1908.

For Petitioner : Mr.T.R.Jeyapalam
For Respondents : Mr.M.Murugan
Government Advocate

ORDER

The petitioner has come forward with this Writ Petition to direct the second respondent to register the certified copy of the compromise decree dated 27/04/2014 passed in the appeal in A.S.(MD). No.22 of 2009 on payment of necessary stamp duty and necessary registration charges and without insisting on the period of limitation under Section 23 of the Registration Act, 1908.



2.By consent of both sides, the writ petition is taken up for final hearing at the stage of admission itself.

3.Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

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4.It is the case of the petitioner that due to some civil dispute between the family members, a suit in O.S.No.27/2006 has been instituted before the Additional District Court (Fast Track Court No.I) Madurai. Challenging the judgment and decree dated 26.11.2008, the petitioner's father filed A.S.No.22/2009 before this Court. Pendency of the said appeal, the parties entered into a compromise and by recording the said compromise, this Court passed a compromise decree dated 27.04.2014, by thus, the parties are entitled to their respective shares. However, based on the compromise decree, when the petitioner approached the 2nd respondent for registration of the compromise decree, the respondents refused to register the same. Hence, the petitioner is before this Court with this writ petition seeking the aforesaid relief.

5. The learned counsel for the petitioner would submit 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.

6. According to the respondents, no one has questioned the Sections 23 and 25 of the Registration Act. But, however, submitted that there are decisions of this Court and that the respondents have to follow the judgment reported in **Sarvothaman Vs. Sub-Registrar, Oulgaret, Pondicherry [2019 (2) CWC 314]**.

7. 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."

8. 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.

9. 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 (C.O)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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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 Inspector General of Registration,
Door No.100, Santhome High Road,
Foreshore Estate, Pattinapakkam,
Chennai.



2. The Joint Sub-Registrar No.1,
Madurai North
Integrated Complex of Registration Department
TNAU Nager,
Rajakampeeram
Y.Othakadai,
Madurai-625 107.

+1 CC to Mr.T.R.JEYAPALAN, Advocate SR-22880.
+1 CC to the SPL GP SR-23123.

W.P. (MD) No.16863 of 2020
26.11.2020

VR (CO)
CS (21.12.2020) 4P 5C