

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2021

CORAM : JUSTICE N.SESHASAYEE

W.P.No.2016 of 2021
and WMP.No.2282 of 2021

S.Sathish Kumar

... Petitioner

Vs.

1.The District Registrar
Tiruppur District
Tiruppur.

2.The Sub Registrar
Office of the Sub Registrar
Avinashi
Tiruppur District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the first respondent dated 17.06.2019 in Na.Ka.No.3194/AA1/2019 and the order of refusal check slip of the second respondent in reference No.RFL/Avinashi/40/2019 refusing to register the Court decree dated 08.08.2017 made in O.S.No.78 of 2017 before the Subordinate Court, Avinashi, Tiruppur District and to quash the same and consequently direct the second respondent to register the said decree and to return the documents on its registration forthwith.

For Petitioner : Mr.C.Prabakaran

For Respondents: Mr.T.M.Pappiah
Special Government Pleader [R1 & R2]

ORDER

The petitioner approached the Sub Registrar, Avinashi, Tiruppur / second respondent to register the compromise decree in O.S.No.78 of 2017 on the file of the Sub Court, Avinashi, dated 08.08.2017, vide his application dated 10.06.2019. However his request was not considered by the Sub-Registrar, and he has issued a refusal check slip dated 08.08.2017, indicating that the document was belatedly presented for registration. Aggrieved which, the petitioner has preferred an appeal before the first respondent, who Vide his order dated 17.06.2019 had uphold the proceedings of the second respondent. Hence, the petitioner is before this Court to quash both the proceedings of the first and second respondent and to direct the second respondent to register the compromise

2. Heard Mr.C.Prabhakaran, learned counsel for the petitioner and Mr.T.M.Pappiah, learned Special Government Pleader for the respondents and perused the documents.

3. The learned counsel for the petitioner brought to the notice of this Court in a judgment of this Court in K.Dhayanidhi vs. State of Tamil Nadu [2020 (2) TNCJ 737(Mad)], wherein, the Court has held, after relying on the judgment of the Division Bench of this Court in S.Sarvothaman v. The Sub Registrar at Oulgaret, Puducherry [2019(3)MLJ 517 = AIR 2019 Mad 125] that registering a decree of the Court is an optional registration and hence, the limitation prescribed under Sections 23 and 25 of the Act, would not apply.

4. The learned Special Government Pleader appearing for the respondents would submit that the Registration Act gives exception in the document and hence, the Sub-Registrar has refused to register the document.

5. The law declared by the Division Bench of this Court in S.Sarvothaman case cited supra, has settled the issue. The registration of a decree is only optional under Section 17(2) of the Registration Act, and therefore, the limitation prescribed under Section 23 of the Act, and the power to condone the delay after four months as provided under Section 25 of the Act, may not apply. There is however one exception to the rule in that, as per Section 17(2)(vi) of the Registration Act, where in a compromise decree, any properties other than the subject matter of the suit (in which compromise decree is passed) is included, then such compromise decree has to be registered under Section 17(1) of the Act. Therefore, except the category of compromise decrees as mentioned in Section 17(2)(vi) of the Registration Act, for all other categories of decrees, the Registering Authority has to register the same without reference to any limitation.

6. So far as the decree required to register in the present petition is concerned, the subject to what is herein above stated, the Registering Authority is required to register the same. The petition is allowed in the manner indicated. No costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

Ds

To:

1.The District Registrar
Tiruppur District
Tiruppur.

2.The Sub Registrar
Office of the Sub Registrar
Avinashi
Tiruppur District.

+1cc to the Government Pleader, S.R.No. 5914

W.P.No.2016 of 2021

GPL (CO)
GN (29/03/2021)



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