

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2021

CORAM : JUSTICE N.SESHASAYEE

W.P.No.2368 of 2021
and WMP.No.2674 of 2021

Selvaraju

... Petitioner

Vs.

The Sub Registrar,
Velagoundanpatti,
Namakkal District.

... Respondent

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 made in Check Slip dated 07.01.2021 in RFL/Velagoundanpatti/1/2021 by the respondent quash the same and consequently direct the respondent to register the decree i O.S.No.47 of 2015 dated 03.02.2020 passed by the learned Principal District Munsif Court, Tiruchengode, Namakkal District.

For Petitioner : Mr.R.Prabakar

For Respondent : Mr.T.M.Pappiah
Special Government Pleader

ORDER

The petitioner approached the Sub Registrar, Velagoundanpatti, Namakkal District to register the decree dated 03.02.2020 in O.S.No.47 of 2015 on the file of the Principal District Munsif, Tiruchengode, on 07.01.2021. However his request was not considered by the Sub-Registrar, and he has issued a refusal check slip dated 07.01.2021, indicating that the document was belatedly presented for registration. Challenging the proceeding dated 07.01.2021, the petitioner has filed the present petition.

2. Heard Mr.R.Prabhakar, 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. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

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Sub Assistant Registrar

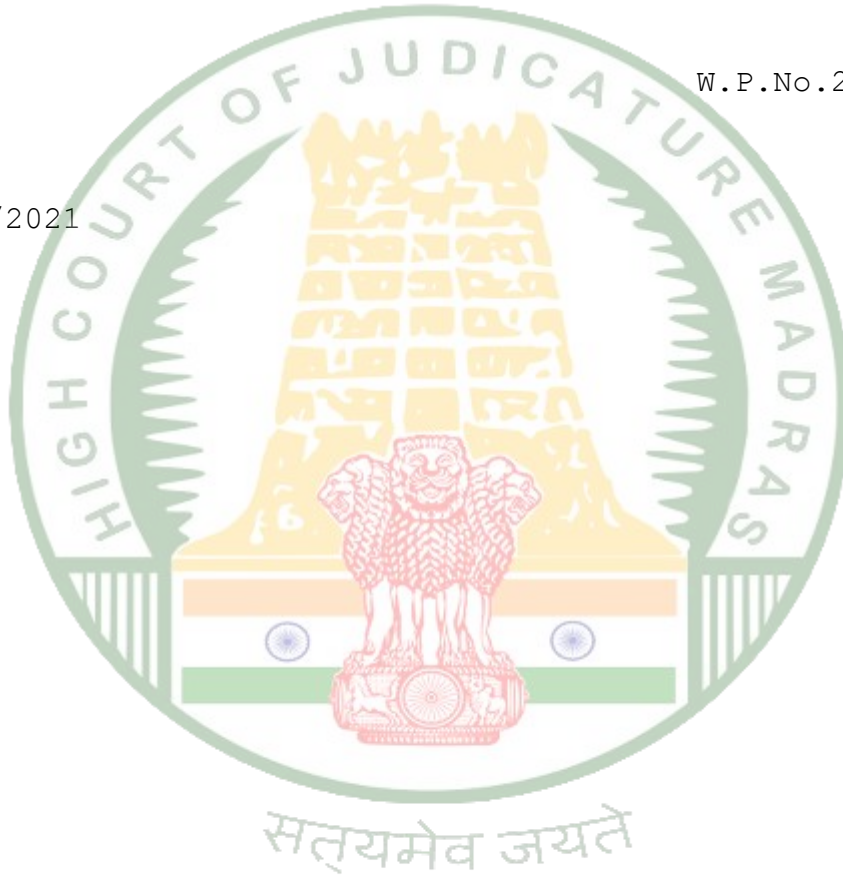
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To:

The Sub Registrar,
Velagoundanpatti,
Namakkal District.

+lcc to M/s.R.Prabakar, Advocate Sr.6330
+lcc to the Government Pleader Sr.6652

W.P.No.2368 of 2021

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srg 26/03/2021



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