

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2021

CORAM: JUSTICE N.SESHASAYEE

WP.No.6059 of 2021

P.Sivakumar

...Petitioner

-Vs-

1.The District Registrar,
Office of the District Registration Office,
Virudhachalam,
Cuddalore District.

2.The Revenue Divisional Officer,
Virudhachalam Taluk,
Cuddalore District.

3.The Thasildar,
Virudhachalam Taluk,
Cuddalore District.

4.The Sub Registrar,
Virudhachalam Taluk,
Cuddalore District.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the 1st respondent to correct the entries in Encumbrance Certificate as per Decree passed by Learned Principal District Munsif Court, Virudhachalam dated 02.11.1999.

For Petitioner : Mr.N.Sakthivel
For R1 : Mr.T.M.Pappiah
Special Government Pleader
For R2 & R3 : Mr.E.Balamurugan,
Special Government Pleader

ORDER

Though the prayer has been styled as what is hereinabove stated, the petitioner only seeks for registration of the Decree in O.S.No.432 of 1999 passed by the Principal District Munsif Court, Virudhachalam.

2.The petitioner approached the District Registrar/first respondent to register the court decree dated 02.11.1999, but it was presented well beyond the time for registering the documents, and on this ground, the first respondent has refused to register the document indicating that the document was belatedly presented for registration.

3.Heard N.Sakthivel, learned counsel for the petitioner and Mr.T.M.Pappiah, learned Special Government Pleader for the first respondent, and Mr.E.Balamurugan, learned Special Government Pleader for the respondents 2 and 3 and perused the documents.

4. 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.

5.Mr.T.M.Pappiah, learned Special Government Pleader appearing for the first respondent would submit that the petitioner has not impleaded the concerned Sub Registrar.

6.Therefore, this Court now suo moto impleads the Sub Registrar, Virudhachalam Taluk, Cuddalore District as fourth respondent.

7.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.

8.The petitioner is now required to present the decree before the Sub Registrar/fourth respondent. The Sub Registrar/fourth respondent is required to register the same as and when the same is presented before him. The petition is accordingly allowed. No costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Tsg
To

1.The District Registrar,
Office of the District Registration Office,
Virudhachalam,
Cuddalore District.

2.The Revenue Divisional Officer,
Virudhachalam Taluk,
Cuddalore District.

3.The Thasildar,
Virudhachalam Taluk,
Cuddalore District.

4.The Sub Registrar,
Virudhachalam Taluk,
Cuddalore District.

+1cc to Mr.N.Sakthivel, Advocate SR.No. 15292

+1 cc to Government Pleader Sr.No. 15850,15425

W.P.No.6059 of 2021

A.SK(18.05.2021)