



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 09.07.2021, 12.07.2021
and 20.07.2021

Orders Pronounced on : 29.07.2021

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THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition Nos.4591 of 2020,
13022, 13191, 13206, 13167, 13961, 14902, 14906, 14960,
14266, 14270, 14274 & 14277 of 2021,
and
W.M.P.No.15783 of 2021 in W.P.No.14906 of 2021
&
W.M.P.Nos.15797 of 2021 in W.P.No.14902 of 2021

W.P.No.4591 of 2020

Mani @ Devarasu

...Petitioner

-Versus-

1. The District Registrar,
Administration,
Dharmapuri.

2. The Sub Registrar,
Kadathur,
Dharmapuri District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the order in Appeal No.2 of 2019 on the file of the 1st respondent dated 03.02.2020 confirming the rejection order passed in pending Document No.P5/2018 Refusal No.1/2019 on the file of the 2nd respondent dated 05.11.2019 and to quash the same and for a consequential direction to the respondents to register the decree dated 21.09.2016 made in favour of the petitioner in O.S.No.12 of 2011 on the file of the Subordinate Judge, Harur.

W.P.No.13022 of 2021:

R.Rangasamy

...Petitioner

-Versus-

The Joint Sub Registrar,
Salem (West),
Office of the Joint No.3 Sub Registrar (West),
Salem District.



Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the respondent pertaining to proceedings in Refusal Number. RFL / Number 3 Joint Sub-Registrar Salem West/3/2021 dated 25.03.2021 and to quash the same as illegal and unsustainable and for a consequential direction to respondent to register the certified copy of the decree dated 26.02.1991 passed in O.S.No. 116/1991 by the Additional Subordinate Judge Court Salem.

W.P.No.13191 of 2021:
Palaniammal

...Petitioner

-Versus-

The Sub-Registrar,
Chennimalai Sub Registrar Office,
Chenniamalai,
Erode District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the respondent pertaining to the Refusal Check Slip in refusal number RFL/Chennimalai/17/2021, dated 03.05.2021, and to quash the same as illegal and incompetent and for a consequential direction to the respondent to register the decree dated 30.11.2015 passed in A.S.No.25 of 2013 on the file of the II Additional District Judge, Erode.

W.P.No.13206 of 2021:
T.Sowkath Ali Khan

... Petitioner

-Versus-

1. The Inspector General of Registration,
No.100, Santhome High Road,
Raja Annamalaipuram, Chennai 600 028.

2. The Sub Registrar,
Kelamangalam,
Krishnagiri District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the record relating of the 2nd respondent pertaining to the orders made under two different Refusal Slips in RFL/Kelamanagalam/3/2021, dated 31/03/2021, and RFL/Kelamanagalam/4/2021, dated 31/03/2021, passed by the 2nd respondent and to quash the same and for a consequential direction to the 2nd respondent to register the decree passed by the Principal Subordinate Judge Krishnagiri in W.O.S.



No.11/2005 and W.O.S.No.53 /2006 dated 31/08/2018 for compulsory registration in accordance with the provisions of Indian Registrations Act 1908.

W.P.No.13167 of 2021:

M.Syed Ibrahim

...Petitioner

-Versus-

1. The Inspector General of Registration,
No.100, Santhome High Road,
Mullima Nagar,
Mandavelipakkam,
Raja Annamalaipuram,
Chennai 600 028.
2. The District Registrar,
North Chennai District Registrar Office,
Kuralagam,
Chennai.
3. The Joint-I Sub-Registrar,
North Madras,
Chennai.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the proceedings of the 3rd respondent relating to Refusal Check Slip in RFL/Chennai North Joint 1/2/2021 on 27.04.2021 and to quash the same and for a consequential direction to the 3rd respondent to register the decree dated 28.02.2019 in O.S.No. 3017/2018 on the file of XIV Assistant Judge (FAC) XVIII Assistant City Civil Court Chennai.

W.P.No.13961 of 2021:-

M.S.Jeganathan

...Petitioner

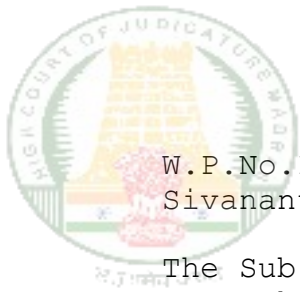
-Versus-

1. The Sub Registrar,
Surampatti,
Erode District.

2.Chellakumarasamy

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the records of the 1st respondent relating to refusal slip in RFL/Avalpoondurai/47/2021 dated 05.05.2021 and to quash same in the light of Judgment in (2019) 3 MLJ and for a consequential direction to the 1st respondent to Register the decree dated 30.07.2014 in O.S.No. 485 of 2010 passed by the Principal District Munsif, Erode.



W.P.No.14902 of 2021:
Sivanantham

... Petitioner

-Versus-

The Sub Registrar,
Kunnathur Registrar Office,
Erode District.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the respondent relating to the impugned order made in Check Slip dated 17.6.2021 in RFL / Kunnathur/1/2021 by the respondent and to quash the same and for a consequential direction to the respondent to register the decree in O.S.No.8 of 2010 dated 10.12.2010 passed by District Munsif, Perundurai, Erode District.

W.P.No.14906 of 2021:
Dhamodaran

... Petitioner

-Versus-

The Sub Registrar,
Sivagiri Registrar Office,
Erode District.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the respondent relating to the impugned order made in Check slip dated 29.6.2021 in RFL / Sivagiri - Erode / 28/ 2021 by the respondent and to quash the same and for a consequential direction to the respondent to register the compromise decree in O.S.NO.506 of 2014 dated 22.8.2019 passed by II Additional Subordinate Judge, Erode.

W.P.No.14960 of 2021:
Mrs.Amala Valetine

... Petitioner

-Versus-

1. The Inspector General of Registration,
Santhome, Chennai.
2. The Sub Registrar,
Adayar, Chennai 600 020.
3. Mr.Pandia Rajan,
Sub Registrar,
Office of the Sub-Registrar,
Adayar, Chennai 600020.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus



calling for the records of the 2nd respondent relating to the order of the 2nd respondent in Check Memo 1 /2021 dated 08.07.2021 and to quash the same and for a consequential direction to the 2nd respondent to register the decree dated 20.11.2018 passed by the learned VIII Assistant Judge (FAC), V Assistant City Civil Court, Chennai in O.S.No. 515 of 2017 by accepting the valuation as stated in the decree.

W.P.No.14266 of 2021:

K.Govindharaj

... Petitioner

-Versus-

1. The Sub Registrar,
Pochampalli,
Krishnagiri District.

2. The M.Kuppammal

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the 1st respondent to register the certified copy of the decree dated 10.06.2013 passed in the suit in O.S.No. 27 of 2012 on the file of the District Munsif - Cum - Judicial Magistrate Court Pochampalli on payment of registration charges alone without insisting on the period of limitation under Section 23 of the Registration Act 1908.

W.P.No.14270 of 2021

K.Sanjeevraj

... Petitioner

-Versus-

1. The Sub Registrar,
Poachampalli,
Krishnagiri District.

2.M.Kuppammal

3.A.Babu

4.A.Babuji

5.G.Sudhakar

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the 1st respondent to register the certified copy of the decree dated 07.02.2011 passed in the suit in O.S.No.26 of 2009 on the file of the District Munsif - Cum - Judicial Magistrate Court Pochampalli on payment of registration charges alone without insisting on the period of limitation under Section 23 of the Registration Act 1908.



W.P.No.14274 of 2021:

K.Sanjeevaraj

... Petitioner

-Versus-

1. The Sub Registrar,
Poachampalli,
Krishnagiri District.

2.P.Ramareddy

3.Uthirasamy

4.A.Babuji

5.G.Sudhakar

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the 1st respondent to register the certified copy of the decree dated 31.08.2015 passed in the suit in O.S.No.4 of 2015 on the file of the District Munsif - Cum - Judicial Magistrate Court Pochampalli on payment of registration charges alone without insisting on the period of limitation under Section 23 of the Registration Act 1908.

W.P.No.14277 of 2021:

K.Sanjeevaraj

... Petitioner

-Versus-

1. The Sub Registrar,
Pochampalli,
Krishnagiri District.

2.M.Kuppammal

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the 1st respondent to register the certified copy of the decree dated 13.02.2006 passed in the suit in O.S.No. 85 of 2005 on the file of the District Munsif - Cum - Judicial Magistrate Court Pochampalli on payment of registration charges alone without insisting on the period of limitation under Section 23 of the Registration Act 1908.

For Petitioner

: Mr.S.Doraiswamy
petitioner

for

in W.P.No.4591 of 2020



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Mr.P.Sivakumar for
petitioner in W.P.No.13022
of 2021

Mr.M.Guruprasad for
petitioner in W.P.No.13191
of 2021

Mr.G.Mohammed Aseef for
petitioner in W.P.No.13206
of 2021

Mr.V.Karnan for petitioner
in W.P.No.13167 of 2021

Mr.J.Franklin for petitioner
in W.P.No.13961 of 2021

Mr.C.E.Pratap for petitioner
in W.P.No.14902 of 2021

Mr.R.Prabakar for petitioner
in W.P.No.14906 of 2021

Mr.R.N.Amarnath for
petitioner in W.P.No.14960
of 2021

Mr.T.Dharani for petitioner
(s) in W.P.No.14266, 14270,
14274, and 14277 of 2021

For Respondent(s) : Mr.R.Shanmugasundaram,
Advocate General assisted by
Mr.Yogesh Kannadasan,
Government Advocate for
respondents in all Writ
Petitions

COMMON ORDER

[This matter has been heard through video conference]

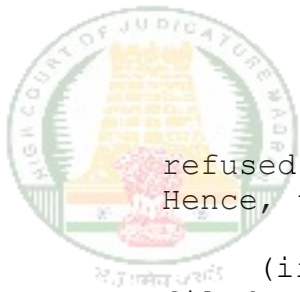
The writ petitions, except W.P.Nos.4591 of 2020 and W.P.Nos.14266, 14270, 14274 and 14277 of 2021, challenge the refusal check slips issued by the respective Sub Registrars refusing to register the decree(s) of civil court on the ground of delay in presenting the document for registration, while the writ petition in W.P.No.4591 of 2021 challenges the order of the appellate authority/1st respondent dismissing the appeal preferred by the petitioner as against the order passed by the 2nd respondent refusing to register the decree of civil court dated 21.09.2016 presented by the petitioner for registration and the writ petitions in W.P.Nos.14266, 14270, 14274 and 14277 of 2021 have been filed seeking a direction to the 1st



2. The common issue involved in these writ petitions is as to whether the registering authority can refuse to register a decree or order of a civil court on the ground that the same was presented for registration beyond the period of limitation prescribed under Section 23 of The Registration Act [hereinafter referred to as "the Act"]

4. The brief facts leading to the filing of writ petitions as culled out from each petitions are as follows:-

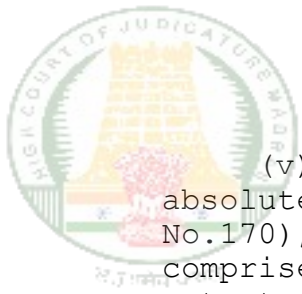
(ii) W.P.No.13022 of 2021: According to the petitioner, his brother R.David filed a suit in O.S.No.116 of 1991 on the file of the Additional Subordinate Judge, Salem, against him for partition and separate possession wherein they entered into a compromise on 26.02.2021 and a decree was passed based on the compromise which has become final. As per the decree, he was allotted undivided 1/3rd share in land and building comprised in Salem Town Ward C Block 22, Town S.No.77/2 with land measuring an extent of 9089 square feet. He has been in possession and enjoyment of the above property for several decades and paying necessary taxes and charges. While so, he had decided to sell a portion of his properties. As the intended buyers insisted him to get the decree registered, on 25.03.2021, he presented the compromise decree for registration. But, the respondent has



refused to register the decree on the ground of limitation. Hence, the present writ petition.

(iii) W.P.No.13191 of 2021: According to the petitioner, she filed a suit for partition in O.S.No.94 of 2009 on the file of the learned Subordinate Judge, Perundurai, as against her brothers which was, after full trial, dismissed, by judgement dated 31.03.2021. Aggrieved by the same, she preferred an appeal in A.S.No.25 of 2013 before the learned II Additional District Judge, Erode, and the same was allowed by judgement dated 30.11.2021 and thereby she was given a share. When she presented the decree for registration on 03.05.2021, the respondent refused to register the decree on the ground of limitation. Hence, the present writ petition.

(iv) W.P.No.13206 of 2021: According to the petitioner, the property in S.No.136 measuring an extent of 1.70 Acres, now sub divided as S.Nos.136/1, 136/1B, and 136/1, situated at Mathigiri, was originally belonged to one Abdul Rahim Sahib. The said land was gifted to the then Management of of Sunnath Jamath Mosque, Mathigiri, by the said Abdul Rahim Sahib through a registered gift deed vide Doc.No.77/1954 on the file of Sub Registrar, Hosur. While so, on 30.01.2004, the Secretary of Titan Township Welfare Association, Mathirigri had managed to get a gift deed executed by Mhamroonisa in favour of the Executive Officer vide Doc.No.137/2004. The said Khamroonisa was not at all the owner of the disputed property and she was not in possession of the property. Thereafter, the said Mhamroonisa filed a suit to declare the title her title over property in question and for permanent injunction and had obtained an ex parte decree. Therefore, the petitioner filed a suit in W.O.S.No.11 of 2015 on the file of the Principal Subordinate Judge, Krishnagiri, seeking to declare the gift deed executed by Mhamroonisa as null and void and declare the property as Wakf property and another suit in W.O.S.No.53 of 2006 seeking to declare the judgement and decree dated 06.11.2020 made in W.O.S.No.6 of 1998 as null and void and not binding and also to declare the property as wakf property and permanent injunction. The suit in W.O.S.No.11 of 2005 was decreed in favour of the Jammath committee and the suit in W.O.S.No.53 of 2006 was partly decreed thereby declaring that the judgement and decree dated 06.11.200 made in O.S.No.6 of 1998 are null and void and not binding on the Jammath committee. Thereafter, on 31.03.2021, he gave a representation along with certified copies of decrees in O.S.No.11 of 2005 and W.O.S.No.53 of 2006 seeking to register the decrees. But, the 2nd respondent refused register the same by way of impugned refusal slips on the ground of limitation. Hence, the present writ petition.



(v) W.P.No.13167 of 2021: According to the petitioner, he is absolute owner of the property situated at D.No.311 (Old No.170), Thambu Chetty Street, George Town, Chennai 600001 comprised in O.S.No.2293, R.S.No.2876, C.No.1291, measuring an extent of about 1032 square feet. He had obtained a loan from one M.Mohan by mortgaging the above said property. The mortgage was registered as Doc.No.84/2008 on the file of the Sub Registrar, North Chennai. Subsequently, he had discharged the entire loan amount with interest. But, the mortgagee had refused to redeem the mortgage by registering the discharge receipt to discharge the mortgage and to return the original deeds and also attempted to sell the mortgage property. Therefore, he filed a suit in O.S.No.3017 of 2018 on the file of XIV Assistant Judge (FAC), XVIII Assistant Judge, City Civil Court, Chennai for redemption of mortgage and for return of original document and for permanent injunction against the mortgagee from alienating, transferring, mortgaging, pledging or encumbering the suit property to any person in any manner. The said suit was decreed on 28.02.2019 as prayed for. As per decree in O.S.No.3017 of 2018, the mortgage has been redeemed. While so, on 27.04.2021, the petitioner presented the decree for registration. But, the 2nd respondent refused to register the same by way of impugned refusal slip on the ground of limitation. Hence, the present writ petition.

(vi) W.P.No.13961 of 2021: According to the petitioner, an agricultural land measuring an extent of 1.21.0 Hectares (3.29 Acres) is an ancestral property owned by his father late Subbaraya Gounder and he died on 20.12.1954. He was a minor at the time of death of his father. After the death of his father, the properties left behind by his father devolved upon himself and his brother. Since the father died in the year 1954, his sister Saraswathi had no share in the properties. Though his father had two sons namely, Pongaianna Gounder and Venkatachala Gounder through his first wife Sellammal, during his life time, father Subbaraya Gounder made an arrangement by giving separate properties to the sons born through first wife and the sons born through the 2nd wife. After the demise of his father, patta and other revenue records got mutated in the name of mother Kaliasammal as the petitioner and his brother were minors. While so, on 15.12.1998 his mother had executed a will in favour of the petitioner and she died on 17.02.1999. Thereafter, the mother of the 2nd respondent namely, Saraswathi applied for change of patta in her name. The Tahsildar without any notice to the petitioner and without any enquiry changed the patta in the name of Saraswathi, the 2nd wife of Subbaraya Gounder, the father of the petitioner. Challenging the same, the petitioner filed an appeal to the Revenue Divisional Officer, who in turn, by his order dated 03.01.2006 directed to issue a joint patta in the name of the petitioner and the deceased Saraswathi.



Thereafter, the petitioner filed a revision before the Commissioner of Land Administration, Chennai and the same was pending. Pending revision, the Government passed an order in G.O.(MS) NO.409 dated 02.07.2008 thereby withdrawing the provisions for second revision. In the above circumstances, the petitioner filed a suit in O.S.No.485 of 2010 on the file of the Principal District Musnif, Erode seeking declaration and that the petitioner is the absolute owner of the suit schedule properties except the house bearing New Door No.338 , Old No.256, Mullamparappu, situate in R.S.No.507/8A of 46, Pudhur B Village, Erode Taluk and also for mandatory injunction and permanent injunction. The above said suit was decreed ex parte by judgement dated 30.07.2014 and the appeal preferred by the 2nd respondent before the Principal District Judge was also dismissed. In the above circumstances, on 05.05.2021, the petitioner presented the decree obtained in his favour for registration, but, the 1st respondent has refused to register the same on the ground of limitation. Hence, the present writ petition.

(vii) W.P.No.14902 of 2021: According to the petitioner, he filed a suit in O.S.No.8 of 2010 on the file of the District Munsif, Perundurai, Erode District, against one Valliammal and 8 others for declaration of her title in respect of the property more fully described in the plaint schedule. The said suit was decreed ex parte on 10.12.2020 as prayed for. After that, he applied for certified copy of the decree on 01.03.2021 and the same was made ready on 24.03.2021. Thereafter, he presented the decree for registration of the same. But, the respondent has refused to register the same on the ground of limitation. Hence, the present writ petition.

(viii) W.P.No.14906 of 2021: According to the petitioner, he filed a suit in O.S.No.506 of 2014 on the file of the II Additional Subordinate Judge, Erode, for partition and separate possession and permanent injunction against the co-sharers from alienating the suit schedule property. Subsequently, he entered into a compromise with her family members who were the co-sharers of the property and therefore, the suit was decreed on 22.08.2019 in terms of the compromise entered into between the parties. He applied for a certified copy of decree on 09.09.2019 and received the same on 21.10.2019. Thereafter, he presented the same for registration on 29.06.2021. But, the respondent has refused to register the same on the ground of limitation. Hence, the present writ petition.

(ix) W.P.No.14960 of 2021: According to the petitioner, he was the land owner of the land admeasuring an extent of 400 square feet, comprised in T.S.No.43 situated at Block No.3, Venkatapuram Village, Mambalam Guindy Taluk, Chennai District.



He had executed a power of attorney deed dated 25.11.2012 in favour of one Moorthy to develop and sell the property to third parties. Accordingly, the power agent executed a sale deed with respect to 400 square feet of land with other lands in favour of his wife Mrs.Amutha vide sale deed dated 24.04.2015 Doc.No.2718/2015 on the file of the 2nd respondent. Subsequently, using the same power of attorney deed, the power agent had sold 320 square feet of land in T.S.No.43 which is part of 400 square feet of land already sold by him in favour of one Mukesh by Doc.No.2033/2010 dated 22.10.2010. On coming to know the same, he had filed a suit in O.S.No.515 of 2017 on the file of the City Civil Court, Chennai, seeking to declare that the sale deed registered as Doc.No.2033/2010 dated 22.10.2010 on the file of the 2nd respondent as null and void. In the said suit, Moorthy, Mukesh and Amutha were impleaded as defendants 1 to 3. The above said suit was decreed on 20.11.2018 as prayed for.

Further, according to the petitioner, the decree sent by the court for registration was not registered by the 2nd respondent. Therefore, he gave a representation on 22.06.2021 personally to the 3rd respondent who was holding the post of the 2nd respondent on 25.06.2021. He also produced a copy of the order in W.P.No.12076 of 2020 dated 07.09.2020 to show that limitation would not stand attracted to present a decree of civil court for registration. In the above circumstances, he himself approached the 2nd respondent on 08.07.2021 and presented the decree for registration. But, the 2nd respondent informed the petitioner that he would only follow the directions issued by his superiors. Registration of civil court decree is only optional and therefore, limitation prescribed under Section 23 of the Registration Act, will not apply. However, without considering the above, the 2nd respondent by his order impugned in the writ petition refused to register the decree presented by the petitioner for registration. Hence, the present writ petition.

(x) W.P.No.14266 of 2021: According to the petitioner, he filed a suit in O.S.No.27 of 2012 on the file of the District Munsif cum Judicial Magistrate, Pochampalli, against the respondent herein for declaration of her title and for permanent injunction restraining her and her men and agent from interfering with his peaceful possession of the property comprised in S.No.194/2 situated at Kannandahalli village, Pochampalli Circle, Krishnagiri District, the same was decreed on 10.06.2013. After obtaining certified copy of a decree, on 30.06.2021, he presented the decree for registration before the 1st respondent. But, request of the petitioner has not been considered by the 1st respondent till date. Hence, the present writ petition.



(xi) W.P.No.14270 of 2021: According to the petitioner, he filed a suit in O.S.No.26 of 2009 on the file of the District Munsif cum Judicial Magistrate, Pochampalli seeking declaration that sale deed dated 12.02.2009 executed by the 1st respondent in favour of the defendants 2 to 4 is null and void and for permanent injunction restraining the defendants and their men from interfering with the peaceful possession of the property in S.No.378/2A, 377/1B2 situated at Kannandahalli Village, Pochampalli Circle, Krishnagiri District and the same was decreed on 07.02.2011 in favour of the petitioner. After obtaining certified copy of a decree, on 30.06.2021, he presented the decree for registration before the 1st respondent. But, request of the petitioner has not been considered by the 1st respondent till date. Hence, the present writ petition.

(xii) W.P.No.14274 of 2021: According to the petitioner, he filed a suit in O.S.No.4 of 2015 on the file of the District Munsif cum Judicial Magistrate, Pochampalli seeking (i) declaration of title in respect of the suit schedule property, (ii) permanent injunction restraining the defendants 1 to 5 from interfering with the peaceful possession of the property by the plaintiff; (iii) declaration declaring that the sale deed dated 05.09.2012 executed by the defendants 4 and 5 in favour of the defendants 1 and 2 and the sale agreement dated 08.12.2014 entered into by the defendants 1 to 3 with the defendants 4 and 5 are null and void and (iv) mandatory injunction directing the 6th respondent to cancel the sale deed executed by the defendants 4 and 5 on 05.09.2012 in favour of the defendants 1 and 2 and the sale agreement dated 08.12.2014 entered into by the defendants 1 and 2 with the 3rd defendant in respect of the suit property. The above suit was decreed on 31.08.2015. After obtaining certified copy of a decree, on 30.06.2021, he presented the decree for registration before the 1st respondent. But, request of the petitioner has not been considered by the 1st respondent till date. Hence, the present writ petition.

(xiii) W.P.No.14277 of 2021: According to the petitioner, he filed a suit in O.S.No.85 of 2005 on the file of the District Munsif cum Judicial Magistrate, Pochampalli seeking declaration declaring that the suit A and B Schedule properties are absolute properties of the plaintiff and for permanent injunction restraining the defendants from interfering with the peaceful possession of the property by the plaintiff. The said suit was decreed ex parte on 13.02.2006. After obtaining certified copy of a decree, on 30.06.2021, he presented the decree for registration before the 1st respondent. But, the request of the petitioner has not been considered by the 1st respondent till date. Hence, the present writ petition.



5. I have heard the learned counsel appearing for the respective petitioners and the learned Advocate General appearing for the respondent registration department and also perused the records carefully.

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6. The learned counsel for the respective petitioners placing reliance heavily upon various judgements of the different Division Benches as well as the Single Judge Benches of this court would contend that, the issue involved in the writ petitions is no more res integra, and this court consistently taking a view that, the decree of a civil court is not compulsorily registrable document and it is a permanent record of the court, therefore, the limitation prescribed under the Act would not be applicable to a decree of a civil court when it is sought to be registered.

7. The learned counsel for the respective petitioner would further submit that, decree of a civil court is not a compulsorily registrable document falling under sub-section (1) of 17 of the Act. Therefore, the registration of decree of a civil court is only optional and a party cannot be compelled to get the decree registered and as such provision in Section 23 of the Act will not be applicable to a decree. In those circumstances, the Sub-Registrars or any other Registrars can Registrar refuse to register the decree invoking the provision of Section 23 of the Act. In support of their contentions, the learned counsel for the petitioners relied upon a judgement of the Full-Bench of the High Court of Andhra Pradesh, in Satyanarayana v. Gangamma [AIR1959 AP 626] as well as the judgements of this court reported in S.Sarvothaman v. Sub-Registrar, Oulgaret, Pondicherry (2019) 3 MLJ 517; Baby v. The Inspector General of Registration [W.P.(MD) No.16863 of 2020 dated 26.11.2020]; The Inspector General of Registration v. Baby [W.A.(MD) No.902 of 2021 dated 26.04.2021]; Rathinam v. The Sub Registrar, Uthukuli, Tiruppur District [W.P.No.10782 of 2021 dated 29.04.2021] and M.Rajendran v. The Inspector General of Registration [W.P.(MD) Nos.8091, 8093 and 9446 of 2020 dated 25.06.2021].

8. Per contra, the learned Advocate General appearing for the Registration Department would contend that, any decree which deals with immovable property is compulsorily registerable and as such the rigour of Section 23 of the Act is squarely applicable. Placing reliance upon the provision in Section 23 of the Act, the learned Advocate General would contend that except the circumstances mentioned in Sections 24, 25 and 26 of the Act, all other documents must be presented within a period of four months from the date of execution. Insofar as the decree passed by civil court is concerned, as per proviso to Section 23 of the Act, a decree or order must be presented within a period



of four months from the date on which the decree or order was made or where the decree or order is appealable, within four months from the date on which it has become final. When the proviso to Section 23 of the Act specifically deals with decree, it cannot be contended that the registration of decree is optional, the limitation prescribed under Section 23 of the Act is not applicable.

9. The learned Advocate General would further contend that the law of limitation has to be applied with all its vigour when the statute prescribed limitation even if it harshly affect any party. He would further contend that had the legislature intended to to give exception for any documents for which the registration is optional, then, it would have explicitly stated so in Section 23 of the Act, in asbsence of the same, it would clearly lead to an inference that the document which is sought to be registered, even if it is optional must be presented within the time prescribed under Section 23 of the Act.

10. The learned Advocate Genreal placing reliance heavily upon a judgement of the Honourable Supreme Court in K.Raghunandan v. Ali Hussain Sabir (2008) 13 SCC 102 and a judgement of the Allahabad High Court in Vipin Kumar Goel v. State of UP, AIR 2010 (Allahabad) 151, would lastly contend that the judgement of the Division Bench of this Court is inconsistent with the law laid down by the Honourable Supreme Court and the judgement of the Allahabad High Court, and therefore, he would pray this court to refer the matter to a larger bench to decide the issue.

11. Before considering the legal issue involved in the cases on hand, this court would like to refer to the relevant provisions dealing with the registration of decree in the Registration Act, 1908.

12. Section 17(1) of the Act deals with documents which requires registration compulsorily. Sub-section (2) of Section 17 of the Act, excludes application of clause (b) and (c) in Section 17(1) of the Act. Sub clause (i) to (iv) of sub-section (2) of Section 17 of the Act reads as follows:-

"(2) Nothing in clauses (b) and (c) of sub-section (1) applies to-

- (i) any composition deed; or
- (ii) any instrument relating to shares in a joint stock Company, notwithstanding that the assets of such Company consist in whole or in part of immovable property; or
- (iii) any debenture issued by any such Company and not creating, declaring, assigning, limiting or extinguishing any right, title or interest, to or in immovable property except in so far as it entitles the holder to the security



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afforded by a registered instrument whereby the Company has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or

(iv) any endorsement upon or transfer of any debenture issued by any such Company; or

(v) any document other than the documents specified in sub-section (1A) not itself creating, declaring, assigning, limiting or extinguishing any right, title or interest of the value of one hundred rupees and upwards to or in immovable property, but merely creating a right to obtain another document which will, when executed, create, declare, assign, limit or extinguish any such right, title or interest; or

(vi) any decree or order of a Court, except a decree or order expressed to be made on a compromise and comprising immovable property other than that which is the subject-matter of the suit or proceeding; or

... ..
... .."

13. Sub clause (b) and (c) of sub-section (1) of Section 17 of the Act reads as follows:-

"17. Documents of which registration is compulsory.— (1) The following documents shall be registered, if the property to which they relate is situate in a district in which, and if they have been executed on or after the date on which, Act No. XVI of 1864, or the Indian Registration Act, 1866, or the Indian Registration Act, 1871, or the Indian Registration Act, 1877, or this Act came or comes into force, namely:-

(a)

(b) other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immovable property; (c) non-testamentary instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest; and



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(c) non-testamentary instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest; and

... ..
... ..
"

14. Section 23 of the Act, prescribes time limit of four months to present the document for registration after execution, which reads as follows:-

"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 officer 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."

15. Section 25 of the Act empowers the Registrar to condone the delay in presenting document where delay for presentation of document is unavoidable upto four months, as follows:-

"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."

16. Section 18 of the Act describes, the documents of which registration is optional. Clause (f) of Section 18 of the Act provides that all other documents not required by Section 17 to be registered are not compulsorily registrable and the registration is optional.



17. A careful reading of the provisions of Section 17 of the Act would show that a decree or orders of civil court do not fall under sub-section (1) of Section 17 and therefore, it is not compulsorily registerable and it falls under clause (vi) of sub-section (2) of Section 17 of the Act, and the registration is optional as per Section 18(f) of the Act.

18. One of the earliest judgements on the issue is a Full Bench Judgement of Andhra Pradesh High Court, in Satyanarayana v. Gangamma [AIR1959 AP 626] wherein it has been held that, when a registration of a document is purely optional one, parties cannot be compelled to get the document registered and the necessity for registration would arise only with regard to the document mentioned in Section 17 of the Act, as such no penalty can be attached for the omission to get the document registered, especially, when the document is exempted under Section 17 of the Act. The relevant portion of the judgement reads as follows:-

"21.
... ..
. ... Section 17 of the Act enumerates the documents which require registration and the effect of failure to observe it is stated in section 49. Under section 18 (e) of the Act, the registration of a will is purely optional. That being so, we do not think that the consequences contemplated by section 49 would flow from not having recourse to section 77 of the Act. How can a party be compelled to get a document registered if such an obligation is not cast by the provisions of the Registration Act. The necessity for registration arises only in regard to documents set out in section 17. No penalty can attach to the omission to get a document registered when it is excepted by section 17. Therefore, we feel that section 77 can have relation only to instruments falling within the ambit of section 17.

22. It is very doubtful whether the executant of a document could be compelled to register it, if it is not necessary to give effect to it. In *Ausuna Begum v. Kheerun Singh* [10 W.R. 360.] , it was ruled by Jackson and Dwarakanath Mitter, JJ., that a suit did not lie to compel registration of a lease executed when it was not required to be registered by law in order to give effect to it and when there was no express covenant to



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register. Anonymous case [M.H.C. Appellate Side Rulings IX.] seems to be in consonance with that rule. Upon a question put by the Civil Judge of Coimbatore, the High Court gave the ruling that registration being optional, a suit would not lie to compel registration.

19. Division Bench of this court in S.Sarvothaman case [cited supra], after referring to various judgements on the point, held that a decree or order of a civil court is not compulsorily registrable and it is only optional and as such, the limitation prescribed under the Act would not stand attracted. The relevant portion of the judgement reads as follows:-

"19. A Full Bench of the Andhra Pradesh High Court in the case of Padala Satyanarayana Murthy Vs. Padala Gangamma [reported in AIR 1959 AP 626] answered a reference as to whether Section 77 of the Indian Registration Act bars a suit on the basis of an unregistered Will, when the Sub-Registrar refused to admit it for registration. It was held that Section 17 of the Act enumerates the documents, which require registration and the effect of failure to observe it is stated in Section 47 and that under Section 18(c) of the Act, the registration of a Will is purely optional and that being so, the Full Bench expressed that they did not think that the consequences contemplated by Section 49 would flow from not having recourse to Section 77 of the Act. It was further held that a party cannot be compelled to get document registered if such an obligation is not cast by the provisions of the Registration Act, that the necessity for registration arises only in regard to document set out in Section 17, that no penalty can attach to the omission to get a document registered when it is excepted by Section 17 and that therefore, the Full Bench felt that Section 77 can have relation only to instrument falling within the ambit of Section 17.

20. The decision in the case of Padala Satyanarayana Murthy was followed by the Allahabad High Court in the decision in the case of Rama Pati Tiwari Vs. District Registrar, Allahabad [reported in AIR 2009 Allahabad 102].



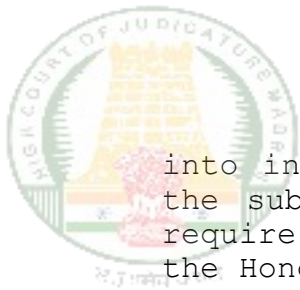
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21. By applying the decision in the case of Padala Satyanarayana Murthy to the facts of the case, the only conclusion that could be arrived at is that a court decree is not compulsorily registerable and that the option lies with the party. In such circumstances, the law laid down by this Court clearly states that the limitation prescribed under the Act would not stand attracted."

20. Yet another Division Bench of Madurai Bench of this Court in The District Registrar, Madurai District (South), Madurai v. Meenakshi Cooperative Building Society Limited, Madurai [W.A.(MD) No.1636 of 2018 dated 07.01.2019] following the principles of purposive interpretation has held that no limitation can be prescribed for registering a decree or order of a civil court. The above said decisions were followed by me in Rathinam v. The Sub-Registrar, Uthukuli, Tiruppur District [W.P.No.10782 of 2021].

21. Very recently, when the judgement of the Division Bench of Madurai Bench of this court referred to in the previous paragraph was sought to be distinguished by placing reliance upon the judgement of a Division Bench of this Court in W.A.No.2395 of 2003 dated 27.07.2016, before the Madurai Bench of this Court, in M.Rajendran v. The Inspector General of Registration, Chennai and two others [W.P.(MD) Nos.8091, 8093 and 9446 of 2020 dated 25.06.2021], a learned single Judge of this Court [Justice N.Anand Venkatesh] relying upon the judgement of the Division Bench of Madurai Bench of this Court in Sarvothaman's case [2019 (3) MLJ 517] has held that there is no inconsistency between the judgements of the Division Benches of this Court in W.A.No.2395 of 2003 and W.A.(MD) No.336 of 2019 and as such there is no necessity to refer the issue to a larger bench.

22. Thus, the consistent view taken by this court is that, the limitation prescribed under the Registration Act, 1908, would not stand attracted for presenting a decree or order of a civil court for registration. So far as the judgement relied on by the learned Advocate General in K.Raghunandan v. Ali Hussain Sabir (2008) 13 SCC 102) is concerned, that was a case where the decree was passed on a compromise between the parties and the decree comprised of immovable properties other than the subject matter of the suit. In those circumstances, the Honourable Supreme Court referring to clause (vi) of sub-section (2) of Section 17 of the Act, has held that if a compromise is entered



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into in respect of an immovable property, comprising other than the subject matter of suit or the proceedings, the same would require registration. The relevant portions of the judgement of the Honourable Supreme Court read as under:-

"24. A plain reading of the said provision clearly shows that a property which is not the subject-matter of the suit or a proceeding would come within the purview of exception contained in clause (vi) of sub-section (2) of Section 17 of the Act. If a compromise is entered into in respect of an immovable property, comprising other than that which was the subject-matter of the suit or the proceeding, the same would require registration. The said provision was inserted by Act 21 of 1929.

... ..
... ..

38. A statute must be construed having regard to the purpose and object thereof. Sub-section (1) of Section 17 of the Act makes registration of the documents compulsory. Sub-section (2) of Section 17 of the Act excludes only the applications of clauses (b) and (c) and not clause (e) of sub-section (1) of Section 17. If a right is created by a compromise decree or is extinguished, it must compulsorily be registered if the compromise decree comprises immovable property which was not the subject-matter of the suit or proceeding. Clause (vi) is an exception to the exception. If the latter part of clause (vi) of sub-section (2) of Section 17 of the Act applies, the first part thereof shall not apply. As in this case not only there exists a dispute with regard to the title of the parties over the passage and the passage, itself, having not found the part of the compromise, we do not find any infirmity in the impugned judgment."

The above judgement of the Honourable Supreme Court is not applicable to the issue involved in the cases on hand.

23. Insofar as the judgement of the Allahabad High Court in Vipin Kumar Goel v. State of UP, AIR 2010 (Allahabad) 151, upon which the learned Advocate General placed reliance, it was held that the documents of which registration is optional are also



required to be presented within a period of four months from the date of execution as prescribed under Section 23 of the Act. A careful reading of the above judgement, this Court is of the view that, the Division Bench of the Allahabad High Court did not consider the other provisions of the Registration Act, 1908, and it is not in conformity with the scheme of the Act, the Division Bench did not consider the Full Bench judgement of the Andhra Pradesh High Court in Satyanarayana v. Gangamma [AIR1959 AP 626]. Whereas the Division Benches of this court have elaborately considered the scheme of the Act and also the Full Bench judgement of the Andhra Pradesh High Court referred to supra, and held that limitation prescribed under Section 23 the Registration Act, 1908, would not stand attracted for presenting a decree or order of a civil court. Therefore, the judgements relied upon by the learned Advocate General would no way helpful to the respondents and the contention of the learned Advocate General in this regard cannot be countenanced.

24. As stated supra, this court has been taking the consistent view that the limitation prescribed under Section 23 of the Registration Act, 1908 would not stand attracted for presenting a decree or order of a civil court for registration and there is no reason to deviate from that view. This court, therefore, is also of the considered view that there is no necessity to refer the issue to a larger bench and the law has been well settled by the Division Benches of this Court without any contradictions.

25. For the foregoing discussions, the orders impugned in W.P.Nos.4591 of 2020 and W.P.Nos.13022, 13191, 13206, 13167, 13961, 14902, 14906 and 14960 of 2021 are liable to be set aside and a mandamus has to be issued to the 1st respondent in W.P.Nos.14266, 14270, 14274 of 14277 of 2021 for the registration of decree(s) presented by the respective petitioners therein.

In the result, All the writ petitions are allowed in the following terms:-

(i) W.P.No.4591 of 2020:- The order of the 1st respondent dated 03.02.2020 made in Appeal No.2 of 2019 confirming the order of the 2nd respondent dated 05.11.2019 refusing to register the decree presented by the petitioner for registration is set aside and the 2nd respondent is directed to register the decree within a period of two weeks from the date of receipt of a copy of this order without any reference to the limitation prescribed under Section 23 of the Registration Act, if the document is otherwise in order.



(ii) W.P.Nos.13022, 13191, 13206, 13167, 13961, 14902, 14906 and 14960 of 2021:- The Refusal Check Slips issued by the 1st respondent in writ petitions or Sub Registrar concerned, as the case may be, refusing to register the decree(s) presented by the respective petitioner for registration are set aside and decree (s) are directed to be registered by the respective Sub Registrars within a period of two weeks from the date of receipt of a copy of this order without any reference to the limitation prescribed under Section 23 of the Registration Act, if the documents are otherwise in order.

(iii) W.P.Nos.14266, 14270, 14274 and 14277 of 2021:- The 1st respondent in writ petitions or Sub Registrar concerned, as the case may be, are directed to register the decree(s) presented by the respective petitioners within a period of two weeks from the date of receipt of a copy of this order without any reference to the limitation prescribed under Section 23 of the Registration Act, if the same are otherwise in order.

(iv) Both parties shall bear their respective costs.

(v) Consequently, connected WMPs are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

kmk

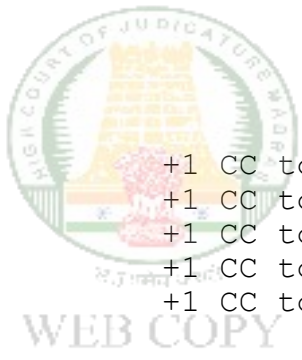
To:

1. The District Registrar,
Administration,
Dharmapuri.
2. The Sub Registrar,
Kadathur,
Dharmapuri District.



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3. The Joint Sub Registrar,
Salem (West),
Office of the Joint No.3 Sub Registrar (West),
Salem District.
 4. The Sub-Registrar,
Chennimalai Sub Registrar Office,
Chenniamalai,
Erode District.
 5. The Inspector General of Registration,
No.100, Santhome High Road,
Raja Annamalaipuram, Chennai 600 028.
 6. The Sub Registrar,
Kelamangalam,
Krishnagiri District.
 7. The District Registrar,
North Chennai District Registrar Office,
Kuralagam,
Chennai.
 8. The Joint-I Sub-Registrar,
North Madras,
Chennai.
 9. The Sub Registrar,
Surampatti,
Erode District.
 10. The Sub Registrar,
Kunnathur Registrar Office,
Erode District.
 11. The Sub Registrar,
Sivagiri Registrar Office,
Erode District.
 12. The Sub Registrar,
Adayar, Chennai 600 020.
 13. The Sub Registrar,
Pochampalli,
Krishnagiri District.
- +4 CC to M/s.T.Dharani, Advocate, Sr.No. 37485,37486,37484,37483.
+2 CC to M/s.R.Prabakar, Advocate, Sr.No.36514,36513.
+1 CC to M/s.J.Franklin, Advocate, Sr.No. 36916.



+1 CC to M/s.R.N.Anarnath, Advocate, Sr.No. 36602.

+1 CC to M/s.P.Sivakumar, Advocate, Sr.No. 36449.

+1 CC to M/s.M.Guruprasad, Advocate, Sr.No. 36655.

+1 CC to M/s.S.Doraisamy, Advocate, Sr.No. 36612.

+1 CC to The Government Pleader, Sr.No. 37379.

[06/05/2022]

Writ Petition Nos.4591 of 2020,
13022, 13191, 13206,
13167, 13961, 14902, 14906,
14960, 14266, 14270, 14274
and 14277 of 2021

RGN(CO)
LS(26/08/2021)