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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.10782 of 2021

Rathinam

.. Petitioner

Vs.

The Sub Registrar,
Uthukuli,
Tiruppur District.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus calling for the records pertaining to the respondent in proceedings Refusal Number:RFL/Uthukuli/7/2020, dated 31.12.2020 and to quash the same as illegal and incompetent and consequently direct the respondent to register the decree dated 02.11.2015, passed in I.A.No.853 of 2013 in O.S.No.21 of 2011 on the file of the learned Subordinate Judge, Perundurai.

For Petitioner : Mr.M.Guruprasad

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

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O R D E R

(The case has been heard through video conference)

The writ petition has been filed challenging the refusal check slip issued by the respondent refusing to register the decrees passed in the partition suit in I.A.No.853 of 2013 in O.S.No.21 of 2011, dated 02.11.2015, on the file of the learned Subordinate Judge, Perundurai, on the ground that the final Decree placed for registration beyond the period of four months after obtaining the copy of the Decree.

2. The brief facts leading to filing of the writ petition is that the petitioner filed a suit for partition against one Nalla Muthu and others in O.S.No.21 of 2011, on the file of the learned Subordinate Judge, Perundurai, seeking for partition. A preliminary decree was passed on 22.02.2013. Thereafter, the petitioner filed an application in I.A.No.853 of 2013 under Order 26 Rule 13 of CPC for passing a final decree, and the final decree was passed on 02.11.2015. Thereafter, the



petitioner presented the final decree before the respondent on 31.12.2020 for registering the same. However, the respondent refused to register the same stating that the decree was placed for registration after four months from the date of obtaining a copy of the decree from the Civil Court and it could not be registered and returned the same. Challenging the same, the present writ petition.

3. Heard the learned counsel on either side and perused the records carefully.

4. The respondent Sub Registrar refused to register the document relying upon Section 23, of the Registration Act, which prescribes time limit of four months for presentation of document for registration from the date of its execution and in case of a decree, within four months from the date of the decree and if it is appealable, within four months from the date on which it becomes final. Section 23 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."

5. It is settled that a decree/order passed by a Civil Court is not compulsorily registrable document. Section 17(1) of the Registration Act (hereinafter called as the 'Act') deals with compulsory registration of documents. Section 17(2) of the Act is an exception to Section 17(1) of the Act. Section 18 of the Act refers to documents for which registration is optional. A decree/order passed by the Civil Court will not fall under Section 17(1) of the Act.

6. A Full Bench of the Andhra Pradesh High Court in Padala Satyanarayana Murthy Vs. Padala Gangamma, reported in AIR 1959 AP 626, has held that a decree/order passed by a competent Court is not compulsorily registrable document and the party cannot be compelled to get the document registered when there is no obligation cast upon him to register the same. Subsequently, a Division Bench of this Court in A.K.Gnanasankar Vs. Joint-II Sub Registrar, Cuddalore reported in 2007 (2) TCJ 68, has held that, a decree is a permanent record of Court and the limitation



prescribed for presentation of the document under Sections 23 and 25 of the Registration Act, is not applicable to a decree presented for registration.

7. The above judgments have been followed in number of judgments of this Court and recently another Division Bench of this Court in S.Sarvothaman Vs. The Sub-Registrar, Oulgaret reported in (2019) 3 MLJ 571 has held that, as the Court decree is not a compulsorily registerable document and the limitation prescribed under the Registration Act would not stand attracted for registering any decree. The relevant portion of the judgment reads as follows:

"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."

8. The above judgment was followed in Anitha Vs. The Inspector of Registration in W.P.No.24857 of 2014 dated 01.03.2021, wherein it is held that the Registrar cannot refuse registration of a Court decree on the ground of limitation.

9. In view of the above settled position of law, the respondent Sub Registrar cannot refuse to register the decree on the ground that it is presented beyond the period prescribed under Section 23 of the Registration Act. In such circumstances, the impugned refusal check slip issued by the respondent is not sustainable and it is liable to be set aside. Accordingly, the writ petition is allowed and the impugned order passed by the respondent is set aside and the respondent is directed to register the decree, if it is otherwise in order. No costs.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

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To
The Sub Registrar,
Uthukuli,
Tiruppur District.



+1cc to Mr.M.Guruprasad, Advocate, S.R.No.26422
+1cc to the Government Pleader, S.R.No.26745

W.P.No.10782 of 2021

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