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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.09.2021

CORAM:

THE HON'BLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.27296 of 2016 and
W.M.P.No.23497 of 2016

Durai Narayanan,

.. Petitioner

Vs

1. The Inspector General of Registration,
Mylapore,
Chennai.

2. The Sub-Registrar,
Pochampalli,
Krishnagiri District.

.. Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for records in connection with intimation in check slip 2/2016 dated 09.05.2016 of the 2nd respondent and quash the same and consequently direct the 2nd respondent to register the judgment and decree in O.S.No.175 of 2014 on the file of the Sub-Ordinate Judge, Uthangarai and cancel the Sale Agreement dated 09.12.2004 registered as Document No.1571/2004 on the file of the 2nd respondent herein.

For Petitioner : M/s.K.Thiruvengadam
For Respondents: Mr.R.M.D.Muhilan
Government Advocate

O R D E R

The check slip dated 09.05.2016 issued by the 2nd respondent is under challenge in the present writ petition.

2. The petitioner states that he is the absolute owner of the properties in S.No.187/7, to an extent of 0.15.5 Hectares at Anandur Village, Pochampalli Taluk, Krishnagiri District. The petitioner agreed to sell an extent of 1764 sq.ft. to one Krishnan and executed an agreement for sale in favour of him on 09.12.2004 and the same was registered as Doc.No.1571 of 2005 with the 2nd respondent viz., Sub Registrar, Pochampalli, Krishnagiri District. As per the agreement, the sale is to be



completed within a year. However, on account of non compliance of certain terms and conditions of the agreement, a civil suit was instituted in O.S.No.175 of 2014 on the file of the Sub Court, Uthangarai and the suit was dismissed on 12.12.2014. No appeal was preferred and the decree and judgment in the said O.S., became final.

3. The grievances of the writ petitioner is that the Sub registrar / 2nd respondent failed to register the decree as passed by the Civil Court in O.S.No.175 of 2014.

4. The respondents filed a counter affidavit stating that with reference to the provisions of Section 23 of the Registration Act, the time limit of four months is to be followed for such registration and in the present case, the time expired and therefore, the respondents refused to register the decree.

5. The issue in this regard has been settled by the Hon'ble Division Bench of this Court in the case of S.Sarvotham Vs. Sub Registrar, reported in 2019 (2) CWC 314. The relevant portions are extracted hereunder.

"12. We have carefully considered the contentions made on either side.

13. As pointed out by us earlier, we need to first address the legal issue, which arises for consideration as to whether at all the law of limitation as prescribed under Section 23 of the Act would apply to a court decree.

14. This question is no longer res integra and this Court has consistently held that the law of limitation will not apply when a court decree is presented for registration. Earliest of the decisions, which has been followed consistently by a Division Bench of this Court is in the case of A.K. Gnanasankar Vs Joint-II Sub-Registrar, Cuddalore-2 [reported in 2007 (2) TCJ 68]. In the said decision, this Court held that the limitation prescribed for presenting a document does not apply to a decree, as it is a permanent record of the court and to register the same, no limitation is prescribed.

15. This decision was followed by one of us (TSSJ) in W.P.No.9352 of 2015 dated 31.3.2015 [B.Vijayan Vs. District Registrar & another]. Subsequently, a similar view had been taken by this Court in W.P.No.8247 of 2016 dated 07.3.2016 [G.Mudiyarasan & another Vs. Inspector General of Registration], which once again relied upon the decision in the case of A.K.Gnanasankar. Further, in the case of Arun Kumar



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Vs. Inspector General of Registration [W.P.No.16569 of 2016 dated 06.6.2016], this Court directed registration of a judgment and decree passed by the Principal District Munsif Court, Salem by condoning the delay on an application filed by the person presenting the document and in that decision, this Court referred to the decision in the case of Rasammal Vs. Pauline Edwin & others [reported in 2011 (2) MLJ 57] wherein the Court considered the scope of Section 25 of the Act."

6. The said judgment of the Hon'ble Division Bench was followed in W.P.No.9944 of 2021 dated 23.04.2021. Thus, the petitioner is entitled for the relief on the ground that even in cases where such decree passed by the competent civil Court beyond the period prescribed under Section 23 of the Limitation Act, such document is to be registered by the Sub Registrar concerned. Therefore, the refusal check slip issued by the 2nd respondent cannot be sustained and stands quashed. Accordingly, the petitioner is at liberty to submit a fresh application along with the document to the 2nd respondent and on receipt of such application from the petitioner, the 2nd respondent is directed to register the same, if the application is otherwise in order, without causing any further delay.

7. With these directions, the writ petition stands allowed. No Costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

rap/ars
To

1. The Inspector General of Registration,
Mylapore,
Chennai.
2. The Sub-Registrar,
Pochampalli,
Krishnagiri District.

W.P.No.27296 of 2016 and
W.M.P.No.23497 of 2016

GPL(CO)
CB(18/10/2021)