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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2021

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P. No. 17992 of 2021
and
W.M.P. No. 19218 of 2021

A.G.Mohammed Arshaan

..Petitioner

Versus

The Sub Registrar Purasawalkam
No.3/1, Brickklin Road, A Block,
TVK Nagar, Purasaiwakkam,
Chennai - 600 012.

..Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records on the files of the respondent impugned check slip No. RFL/ Puraswalkam / 6/ 2021 dated 04.08.2021 refusing to register Judgment and Decree in C.S. No.330 of 2000 dated 09.10.2003 and to quash the same and consequently direct the respondent to register the Judgement and Decree in C.S. No.330 of 2000 dated 09.10.2003 and to release the same.

For Petitioner : Mr. Jayesh B. Dolia
for Aiyar and Dolia

For Respondent : Mr. Yogesh Kannadasan
Government Advocate

O R D E R

This writ petition is filed to quash the impugned check slip No. RFL/ Puraswalkam/6/2021, dated 04.08.2021, refusing to register the Judgment and Decree in C.S. No.330 of 2000 dated 09.10.2003 and consequently direct the respondent to register the Judgement and Decree in C.S. No.330 of 2000 dated 09.10.2003 and to release the same.



2. The case of the petitioner is that he purchased 1/3rd undivided share of the property comprised in R.S. No.2/7 Part, out of 4637 square feet, together with common right over the passage measuring 12.5 feet wide and 59 feet long leading to Ramaswamy Mudaliar Road, under sale deed dated 08.05.1997 and registered as document No.1447 of 1997, in the office of the Sub Registrar, Purasawalkam, from one Daniel James Bissett Edward through his Power Agent namely A.K.Raghavulu. The petitioner's parents namely A.G.Naser Ahmed and A.R.Rubeena Farheen, purchased the balance 1/3rd undivided share of the property comprised in R.S. No.2/7 Part, out of 4637 square feet, under sale deeds dated 08.05.1997, vide document Nos.1448 & 1449 of 1997, respectively, from Daniel James Bissett Edward through his Power Agent namely A.K.Raghavulu. The petitioner and his parents put up new building construction over the said land after obtaining due sanction from the Corporation of Chennai and Tahsildar, Purasawalkam - Perambur Taluk, Chennai, under Patta C.A. No.947/2002-2003. The vendor Daniel James Bissett Edward, through his another power agent Pushpa Sachdeva, cancelled the aforesaid three sale deeds under cancellation deed dated 31.03.2000 and registered as document No.1505 of 2000, 1506 of 2000 and 1507 of 2007. The petitioner filed a suit against his power agent A.K.Raghavulu, in C.S. No.330 of 2000, before this Court, seeking direction for cancellation of above three sale deeds. It is stated by the petitioner that by virtue of compromise decree dated 09.10.2003 in C.S. No.330 of 2000, this Court held that the sale deeds are binding in nature and confirmed the title of the property in favour of the petitioner and his parents. It is further stated by the petitioner that though the respondent was informed about the above decision and a copy of the above judgment was also shared, the respondent took a stand that the judgment will not be binding him unless there is an order of Inspector General of Registration or specific order from the Court and refused to register the judgment and decree in C.S. No.330 of 2000, dated 09.10.2003 and issued impugned check slip. Aggrieved by the same, the petitioner approached this Court by way of filing this present Writ Petition.

3. Learned counsel for the petitioner submitted that the respondent cannot refuse to register a decree as it is not time bound and Section 23 and 24 of the Registration Act, will have no application to a Court decree. He further submitted that the petitioner holds a valid title and is in occupation of the property. The judgment and decree in C.S. No.330 of 2000 dated 09.10.2003, reconfirms the title of the petitioner and his parents. He further submitted that the refusal of registering the document by the respondent is totally illegal and not maintainable in law and hence, he prays to allow this Writ Petition.



4. In support of his submissions, learned counsel for the petitioner relied upon the judgment of a Division Bench of this Court in W.A. No.336 of 2019, dated 07.02.2019, wherein it is held as hereunder:

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"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. Earlier 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."

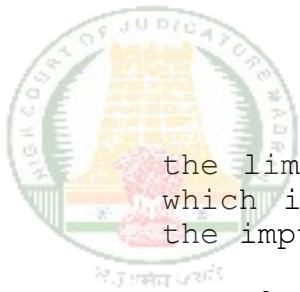
Learned counsel for the petitioner also relied upon a judgment of this Court in W.P.(MD) Nos.8091, 8093 and 9446 of 2020 dated 25.06.2021, wherein it is held as hereunder:

" 21. In view of the settled law, the Sub Registrar cannot refuse to register any order or decree only on the ground that the same has been presented beyond the period of limitation provided under Section 23 of the Act. Hence, the Sub Registrar shall entertain the certified copy of the decree that is presented by the petitioners and shall register the same."

5. Learned Government Advocate appearing for the respondent submitted that Section 23 of the Registration Act specifically provides for the time limit within which a document must be presented. He further submitted that according to Section 23 of the Registration Act, a decree should be presented for registration, within a period of four months from the date on which the decree or the order was made ready. Learned Government Advocate further submitted that the said Act specifically provides for a time limit for presenting a decree for registration and on the expiry of the time limit, the said decree cannot be entertained by the Registrar. Hence, prays dismissal of this Writ Petition.

6. Heard both sides and perused the materials.

7. Considering the facts and circumstances of the case, this Court is of the view that the Sub-Registrar cannot refuse to register any order or decree. The law of limitation will not apply when a permanent record of the Court or a Court decree is presented for registration and the Sub-Registrar cannot say that



the limitation period to be fixed for presenting a Court decree which is unacceptable. Hence, this Court is inclined to quash the impugned check slip passed by the respondent.

8. Accordingly, the impugned check slip No. RFL/Puraswalkam/6/2021, dated 04.08.2021, passed by the respondent is hereby quashed and the respondent is directed to register the Judgment and Decree in C.S. No.330 of 2000 dated 09.10.2003, that is presented for registration by the petitioner, as expeditiously as possible.

With the above direction this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

bkn

To

The Sub Registrar Purasawalkam
No.3/1, Brickklin Road, A Block,
TVK Nagar, Purasaiwakkam,
Chennai - 600 012.

+1cc to M/s.Aiyar and Dolia, Advocate, S.R.No.43488
+1cc to the Government Pleader, S.R.No.43646

W.P. No. 17992 of 2021

SVI (CO)
RGA (20/09/2021)