



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.10.2021

CORAM:

THE HONOURABLE MRS.JUSTICE V. BHAVANI SUBBAROYAN

W.P.NO.22521 OF 2021

R.Ramasamy Gounder

...Petitioner

Versus

1.The District Registrar,
Tiruppur District,
Tiruppur.

2.The Sub Registrar,
Avinashi, Tiruppur District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified mandamus, to call for the records relating to the impugned orders passed by the 1st respondent dated 30.07.2021 made in Na.Ka.No.1973/AA1/2021 in confirming the order of the 2nd respondent dated 19.3.2021 made in refusal check slip reference No.RFL/Avinashi/3/2021 refusing to register the court Decree dated 08.12.2018 made in O.S.No.90 of 2018 before the Sub Ordinate Court , Avinashi, Tiruppur District and to quash the same and consequently direct the 2nd respondent to register the said decree and to return the documents on its registration forthwith.

For Petitioner : Mr.N.Anand

For Respondents : Mr.Yogesh Kannadasan
Government Advocate

O R D E R

This writ petition is filed challenging the 1st respondent dated 30.07.2021 made in Na.Ka.No.1973/AA1/2021 in confirming the order of the 2nd respondent dated 19.3.2021 made in refusal check slip reference No.RFL/Avinashi/3/2021, refusing to register the court Decree dated 08.12.2018 made in O.S. No.90 of 2018 before the Sub Ordinate Court , Avinashi, Tiruppur District and to direct the respondent to register the said decree and to return the documents on its registration.



2. The case of the petitioner is that the properties comprised in Survey Nos.43, 43/2A, 43/2B, 81, 81/1, situated at Nambiyampalayam Village, Avinashi Taluk, Tiruppur District, belongs to the petitioner's joint family. Since some of the family members refused to allot the property of share, the petitioner filed a suit in O.S. No.90 of 2018 before the Subordinate Court, Avinashi, seeking the relief of partition of 1/24th share and to allot 3 such shares to the petitioner and his siblings. It is stated that on 08.12.2018, the Subordinate Court, Avinashi, passed the final decree in O.S. No.90 of 2018 based on the compromise memo filed by the family members. It is further stated that the petitioner has taken steps to register the decree before the Jurisdictional Registrar / second respondent by producing the decree and judgment passed in O.S. No.90 of 2018 along with necessary documents and witnesses, in terms of Section 23 of the Registration Act, 1908. It is stated that on receipt of the said document, the second respondent has passed an order in refusal No.RFL/Avinashi/3/2021, returning the document without registering the decree for the reason that the judgment and decree was presented with a delay of more than eight months as required under Section 23 of the Registration Act, 1908. Aggrieved by which, the petitioner has preferred an appeal before the first respondent, who in turn confirmed the order of the second respondent by proceedings dated 30.07.2021 in Na.Ka. No.1973/AA1/2021. Hence, the petitioner filed this present Writ Petition to quash the order of the first respondent.

3. Learned counsel for the petitioner submitted that the decree granted by the competent Court of law is valid forever and there is no time limit or limitation prescribed for the factum of decree granted by the competent Court. He further submitted that the Registering Authority cannot impose such a hard condition to return the document as it was presented beyond the period of limitation as provided under Section 23 of the Registration Act.

4. 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.

5. Heard both sides and perused the materials.



6. 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 order passed by the first respondent.

7. Accordingly, the order of the 1st respondent dated 30.07.2021 made in Na.Ka.No.1973/AA1/2021 in confirming the order of the 2nd respondent dated 19.3.2021 made in refusal check slip reference No.RFL/Avinashi/3/2021 refusing to register the court Decree dated 08.12.2018 made in O.S. No.90 of 2018 before the Sub Ordinate Court, Avinashi, Tiruppur District is hereby quashed and the second respondent is directed to register the judgment and decree dated 08.12.2018 made in O.S. No.90 of 2018 by the Sub Ordinate Court, Avinashi, Tiruppur District, that is presented for registration by the petitioner, as expeditiously as possible.

8. With the above direction this Writ Petition is disposed of. No costs.

Sd/-
Deputy Registrar (CS)

// True Copy //

Sub Assistant Registrar

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To

1.The Subordinate Judge,
Subordinate Court, Avinashi,
Tiruppur District.

2.The District Registrar,
Tiruppur District, Tiruppur.

3.The Sub Registrar,
Avinashi, Tiruppur District.

+1cc to Mr.C.Prabakaran, Advocate Sr.No.54319
+1cc to the Government Pleader Sr.No.55040

W.P. No.22521 of 2021

MT (CO)
RVM(18/02/2022)