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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2021

CORAM

THE HONOURABLE Mr. JUSTICE G.K.ILANTHIRAIYAN

WP.No.26912 of 2021

P.Marudhappan

... Petitioner

Vs

1. The District Registrar,  
Namakkal,  
Ernapuram Post,  
Namakkal District

2. The Sub Registrar,  
Paramathi,  
Paramathi Velur Taluk,  
Namakkal District

... Respondents

Prayer :-

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the second respondent herein to register the Civil Court Compromise Decree dated 07.11.2019 passed by the Sub Court, Paramathi within a limited time frame, without insisting on the limitation period of 4 months by citing Section 23 of the Registration Act, 1908.

For Petitioner : Mr.P.Kumaravel

For Respondent : Mr.Yogesh Kannadasan,  
Special Government Pleader

ORDER

This writ petition is filed for direction directing the second respondent herein to register the Civil Court Compromise Decree dated 07.11.2019 passed by the Sub Court, Paramathi within a limited time frame, without insisting on the limitation period of 4 months by citing Section 23 of the Registration Act, 1908.



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2. Heard, Mr.P.Kumaravel, the learned counsel for the petitioner and Mr.Yogesh Kannadasan, Special Government Pleader appearing for the respondents.

3. The petitioner and his family members owned property comprised in survey No.556/4 admeasuring 1.20 acres and the property comprised in survey No.556/3 admeasuring 6.2 cents which was inherited from their father, who died on 10.12.2015. Thereafter the petitioner filed suit for partition and separate possession as against his family members before the Sub Court, Paramathi in OS.No.88 of 2019. While pending the suit, there was compromise between them and compromise decree was passed on 07.11.2019. The petitioner obtained certified copy of the decree and presented before the second respondent for registration. However, the second respondent refused to register the same for the reason that it was not presented within a period of four months from the date of decree as prescribed under Section 23 of the Registration Act, 1908.

4. This Court repeatedly held that in respect of the civil court decree for registration, the provision under Section 23 of the said Act cannot stand attracted insofar as the limitation is concerned for registration of court decree, since it is not compulsorily registrable document. In other words, as any other document, which are to be registered compulsorily under the Registration Act, the court decree and orders need not be registered compulsorily. Therefore, it is only optional, by exercising such option, if the parties desire to register any decree or order of the Court, the same can be treated only as an optional registration, for which, the limitation prescribed under Section 23 of the Act cannot be strictly construed as a mandatory requirement. Therefore, it can only be treated as directory and the mandatory requirement of registration of document within four months as contemplated under Section 23 of the said Act cannot be put against any party who wants to register court decree or order.

5. Hence, the petitioner is directed to re-present the decree of compromise before the second respondent for registration and on receipt of the same, the second respondent is directed to register and release the same on payment of requisite stamp duty and registration fees, if otherwise in order.



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6. With the above direction, this writ petition is allowed. No order as to costs.

Sd/-  
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The District Registrar,  
Namakkal,  
Ernapuram Post,  
Namakkal District
2. The Sub Registrar,  
Paramathi,  
Paramathi Velur Taluk,  
Namakkal District

+1cc to Mr.M.Ravi, Advocate, S.R.No.67995

+1cc to the Government Pleader, S.R.No.68644

WP.No.26912 of 2021

AD (CO)  
SU (10/01/2022)