



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.08.2021

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THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WP.No.32583 of 2019

[Video Conferencing]

K.R.Balasubramanian

.. Petitioner

Versus

The Joint Sub Registrar No.1,
Office of the Joint Sub Registrar No.1,
Salem (West), Collectorate,
Salem - 636 001.

.. Respondent

Prayer : - Writ Petition filed under Article 226 of the Constitution of India praying for a writ of mandamus, praying to call for the records relating to the proceedings in Check Slip No.1 of 2019 dated 08.11.2019, on the file of the respondent herein and to quash the same, and to direct the respondent to accept the certified copy of the final decree dated 15.02.1995 passed in O.S.No.885 of 1994 on the file of the Principal Subordinate Judge, Salem, produced by the petitioner for registration, and to register the same in accordance with the law and the procedure within the time frame as may be fixed by this Court.

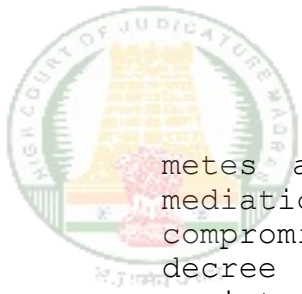
For Petitioner : M/s.S.Subbiah
Senior Counsel
for Elizabeth Ravi

For Respondent : Mr.K.M.D.Muhilan
Government Advocate

ORDER

Heard Mr.S.Subbiah, learned Senior Counsel appearing on behalf of the petitioner and Mr.K.M.D.Muhilan, learned Government Advocate appearing on behalf of the respondent.

2. The petitioner had initiated O.S.NO.885 of 1994, on the file of the learned Principal Subordinate Judge, Salem, for partition and separate possession of 1/6th share in the property mentioned in the schedule to the plaint. The property was a residential property and it could not be divided into



metes and bounds. Therefore, the parties were referred to mediation and compromise was effected. Consequent to the said compromise, a decree was also passed on 15.02.1995. The said decree was sought to be registered and presented for registration before the Joint Sub Registrar No.1, Salem (West), Collectorate, Salem - 636 001. The said Officer had refused to register the same and issued proceedings in Check Slip No.1 of 2019 dated 08.11.2019 stating that the decree cannot be registered claiming that the document had been presented beyond the period of limitation.

3. The period of limitation has been given under Section 23 of the Registration Act, 1989. As a matter of fact, this issue is no longer res integra. A Division Bench of this Court and also learned Single Judges have dealt with Section 23 of the Registration Act 1908 and held that the same would not be applicable for registration of a decree. The issue is applicable only when there is addition of properties in the decree. There no such addition of property included in the decree in O.S.No.885 of 1994, dated 15.02.1995.

4. The learned counsel for the petitioner relied on the decision of the Division Bench of this Court in S.Sarvothaman vs Sub-Registrar, Oulgaret, Pondicherry [(2019) 3 MLJ 517] wherein it was held that Section 23 of the Registration Act, 1908, would not apply to registration of decrees.

5. A Hon'ble Single Bench of this Court, had also asserted the same position in W.P.Nos.13167, 13191, 13353 and 13206 of 2021 by order dated 28.07.2021.

6. However, as pointed out by Mr.K.M.D.Muhilan, learned Government Advocate in the instant case in O.S.No.885 of 1994, a decree has been passed pursuant to a compromise effected among the parties.

7. It is therefore, only appropriate that the respondent herein enquires the parties with respect to the title, makes the preliminary enquiry and if, thereafter, may proceed to register, if it is otherwise in order.

8. Accordingly, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

The Joint Sub Registrar No.1,
Office of the Joint Sub Registrar No.1,
Salem (West), Collectorate,
Salem - 636 001.

+1cc to M/S.Elizabeth Ravi, Advocate, S.R.No.37597
+1cc to the Government Pleader, S.R.No.38076

WP.No.32583 of 2019

SRA (CO)
CT/01/09/2021