



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 22.02.2021

Pronounced on : 10.03.2021

WEB COPY

CORAM

THE HON'BLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) No.893 of 2021

and

W.M.P. (MD) No.752 of 2021

Gunasekaran

... Petitioner

-vs-

The Sub Registrar,
Office of the Sub Registrar,
Karur West,
Karur District.

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned refusal Check Slip in Refusal No.RFL/Melakarur/32/2020, dated 26.08.2020, issued by the respondent and quash the same consequently direct the respondent to register the judgment and decree passed in O.S.No.669 of 2016 on the file of the Principal Sub Judge, Karur, in the light of the judgment reported in 2019 (3) MLJ 517.

For Petitioner : Mr.D.S.Haroon Rasheed
For Respondent : Mr.K.Sathiyasingh
Additional Government Pleader

ORDER

The short facts are that the daughter of the petitioner filed a suit in O.S.No.669 of 2016 before the Principal Sub Court, Karur, for partition of her 1/4th share in the suit scheduled properties against the petitioner. However, during the pendency of the suit, a compromise was entered into between them. Based on the compromise memo, the suit was decreed vide decree of the trial Court dated 10.09.2019. The petitioner, who is the defendant, had presented the certified copy of the decree and judgment in O.S.No.669 of 2016 before the respondent for registration on 26.08.2020. The respondent refused to register the final decree of the Civil Court on the ground that there was a delay in presenting the document for



registration since the final decree of the Principal Sub Court, Karur, was dated 10.09.2019.

2.As far as the issue of refusal by the respondent to register the Civil Court decree on the stated ground is concerned, the Courts have consistently held in respect of registration of the Court judgments and decrees, no limitation is applicable and this Court has allowed a number of Writ Petitions with similar challenges.

3.The present petitioner also is before this Court challenging the refusal order of the respondent in failing to register the final decree of the Civil Court in O.S.No.669 of 2016 dated 10.09.2019.

4.When the matter is taken up for hearing, the learned Counsel for the petitioner would submit that even very recently this Court has allowed similar Writ Petitions by setting aside the refusal check slip issued by the Registration Department. The learned Counsel for the petitioner would refer to the decision of this Court rendered in W.P.(MD)No.10360 of 2020 dated 27.01.2021. The learned Counsel for the petitioner would specifically draw the attention of this Court to paragraphs 6 to 12 in the order which are extracted hereunder:

"6.The learned Counsel for the petitioner would state that the issue where the rejection of request for registration of the Court decrees on the basis of the limitation is no more *res integra* and there are any number of decisions holding that there cannot be any time limitation for registration of the Court decrees.

7.The learned Counsel appearing for the petitioner would refer to a recent Division Bench judgment reported in **2019 SCC OnLine Mad 23555 [S.Sarvothaman v. Sub Registrar]**. One of the questions framed for consideration by the Division Bench was incorporated in paragraph 6 which reads as under:

"6.The legal question involved in the instant case is as to whether the respondent could have refused registration of the said decree passed in O.S.No.6 of 1968 dated 29.04.1970 on the ground that it was presented beyond the time limit prescribed under Section 23 of the Act. Since the legal question is no longer *res integra* and the respondent having not taken note of the legal issue, this Court is of the view that said the writ petition is maintainable and the appellant need not be driven to avail the alternate remedy available under the Act. Accordingly, the preliminary objection raised by the learned Additional Government Pleader stands rejected."



8.The Division Bench observed that the said issue was no more *res integra* in paragraph 14 which reads as under:

"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 v. 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."

9.Thereafter, the Division Bench has relied on several decisions in support of the above conclusion and finally held in paragraph 26 which is extracted hereunder:

"26.As pointed out by us earlier, the time limit stipulated under Section 23 of the Act will have no application to a court decree. For the above reasons, we are of the considered view that the reasons assigned by the respondent for refusing to register the decree dated 29.04.1970 vide order dated 05.07.2018 is unsustainable in law."

10.Therefore, the learned Counsel for the petitioner would submit that despite the Courts have consistently held that no time limit would be made applicable in respect of registration of Court decrees, unfortunately, the authorities are passing routine orders in such matters, without reference to the legal principles laid down by the Courts.

11.As far as the legal principle is concerned, in regard to the subject matter, the learned Additional Government Pleader fairly admitted and conceded the position.

12.In the face of the settled issue that in respect of a Court decree the period of limitation would not apply, the rejection to register the document on that ground is *per se* illegal and liable to be interfered."

Therefore, the learned Counsel for the petitioner would pray for similar orders to be passed in this Writ Petition as well.



5.Mr.K.Sathiya Singh, learned Additional Government Pleader would not quarrel with the submission of the learned Counsel for the petitioner and would, in fact, fairly concede as to the settled legal position in regard to the issue raised in the Writ Petition.

6.In view of the same, the Writ Petition has to be necessarily allowed. In the said circumstances, the order passed by the respondent in RFL/Melakarur/32/2020, dated 26.08.2020 is hereby set aside and the respondent is directed to register the final decree passed in O.S.No.669 of 2016, dated 10.09.2019 on the file of the Principal Sub Judge, Karur, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

SRM

To

The Sub Registrar,
Office of the Sub Registrar,
Karur West,
Karur District.

+1 CC to M/s.SPL GP (SR-10540[F] dated 11/03/2021)

Order made in
W.P. (MD) No.893 of 2021
10.03.2021

VB (23.03.2021) 4P 3C