



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 17.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE **V.PARTHIBAN**

W.P. (MD)No.3118 of 2021

S.Karuppiah

... Petitioner

- Vs -

1.The District Registrar,
Tirunelveli District,
Tirunelveli.

2.The Sub Registrar,
Pettai,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the impugned Refusal Check Slip issued by the second respondent in Refusal Number: RFL/Pettai/4/2021, dated 12.02.2021 and quash the same as illegal and consequently direct the second respondent to register the decree in O.S.No.95 of 2016 on the file of Principal District Munsif Court, Tirunelveli dated 04.06.2019 submitted by the petitioner within a time frame fixed by this Court.

For Petitioner

: Mr.R.J.Karthick

For Respondents

: Mr.K.Sathiya Singh

Additional Government Pleader

ORDER

The case of the petitioner is that he owns an agricultural land in Survey No.125/1 in Pettai Village, Tirunelveli Taluk, Tirunelveli District measuring to an extent of 0.26.5 ares, having purchased the same by sale deed dated 17.05.2001 executed by one Mrs.B.Maheswari. While so, one Mr.S.Ramesh claiming tenancy right had executed a fraudulent registered cultivating tenancy right transfer deed dated 01.07.2010 in favour of one Mrs.R.Shanthi. The petitioner, being aggrieved by a fraudulent registration of the tenancy right deed, had approached the Civil Court and filed a suit in O.S.No.95 of 2016 before the Principal District Munsif Court, Tirunelveli, seeking to declare the transfer deed of tenancy right dated 01.07.2010 as null and void and not binding upon the petitioner and also for the consequential permanent injunction.

2.The trial Court decreed the suit and a copy of the decree was also directed to be forwarded to the Sub Registrar Office concerned

<https://hcservices.ecourts.gov.in/hcservices/>



for carrying out the same in its records. The certified copy of the same was made ready on 19.07.2019.

3. When the petitioner applied for encumbrance certificate, the judgment and decree of the trial Court in O.S.No.95 of 2016, dated 04.06.2019, was not reflected. Therefore, on 12.02.2021, the petitioner submitted a certified copy of the judgment and decree dated 04.06.2019 to the first respondent. However, the second respondent by the impugned refusal check slip dated 12.02.2021 refused to register the decree on the ground that the same was presented beyond the period of limitation.

4. The learned Counsel appearing for the petitioner would submit that the issue whether it is open to the registering authority to refuse to register the document on the ground of applying the principle of limitation in matters of registration of judgment and decree of the Civil Court is no more *res integra*.

5. As far as the issue of refusal by the second 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.

6. The present petitioner also is before this Court challenging the refusal order of the second respondent in failing to register the judgment and decree of the Civil Court in O.S.No.95 of 2016 dated 04.06.2019.

7. 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.

8.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.

9.In view of the same, the Writ Petition has to be necessarily allowed and accordingly the same is allowed. The order passed by the 2nd respondent in RFL/Pettai/4/2021, dated 12.02.2021 is hereby set aside and the second respondent is directed to register the judgment and decree passed in O.S.No.95 of 2016, dated 04.06.2019 on the file of the Principal District Munsif Court, Tirunelveli, within a period of two weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

SRM

To

1.The District Registrar,
Tirunelveli District,
Tirunelveli.

2.The Sub Registrar,
Pettai, Tirunelveli District.

+1 CC to AGP (SR-5963[F] dated 18/02/2021)

+1 CC to Mr.R.J.KARTHICK, Advocate (SR-6024[F] dated 18/02/2021)

W.P(MD)No.3118 of 2021

17.02.2021