



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2021

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) No.10360 of 2020

Nethaji @ Vijayakumar

.. Petitioner

Vs

1.The District Registrar (Registration),
Kumbakonam.

2.Joint No.1 Sub Registrar,
District Registrar Office,
Kumbakonam.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings of the No.1, Joint Sub Registrar, Office of the District Registrar, Kumbakonam, dated 22.03.2019 vide refusal check slip and the subsequent confirmation order passed by the District Registrar, Kumbakonam dated 05.12.2019 in Na.Ka.No.2483/Aa/2019 and quash the same consequential direction directing the respondents to register the Final Decree passed in I.A.No.512 of 1987 in O.S.No.309/1987 dated 10.12.2014 by the Court of the Principal District Munsif, Kumbakonam presented by the petitioner, on the file of the No.1, Joint Sub Registrar, Kumbakonam.

For Petitioner	:	Mr.N.Dilip Kumar
For Respondents	:	Mr.K.Sathiya Singh Additional Government Pleader

ORDER

The case of the petitioner is that he filed a case for partition and for separate possession of the schedule of properties and also for a declaration that a mortgage dated 24.11.1968 is not binding on the plaintiff. The suit in O.S.No.8 of 1973 was filed before the Subordinate Judge, Kumbakonam. The suit was decreed on 24.07.1976 and a partition was effected into 7 equal shares and all the beneficiaries for the partition including the petitioner was put in possession of their respective share.

2.The Civil Court has also granted a final decree in I.A.No.512 of 1987 in the renumbered O.S.No.309 of 1987 on the file of the Principal District Munsif Court, Kumbakonam, passed on 10.12.2014.

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



3.The petitioner herein presented the final decree passed by the competent Civil Court for registration before the second respondent on 21.03.2019, however, the second respondent refused to register the Civil Court decree and rejected the request on 22.03.2019 by issuing a refusal check slip. The refusal of the second respondent was only on the ground that the final decree was presented for registration beyond the prescribed time period.

4.The petitioner was, therefore, constrained to file an appeal before the first respondent District Registrar on 07.08.2019. The first respondent, without proper application of mind, rejected the appeal vide dated 05.04.2019. In fact, when the first respondent was made aware of the ruling of this Court saying that there cannot be any time limit in respect of the Court decrees, still the first respondent has summarily rejected the appeal. Therefore, the petitioner is before this Court.

5.Heard the learned Counsel appearing for the petitioner and Mr.K.Sathiya Singh, learned Additional Government Pleader appearing for the respondents.

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:

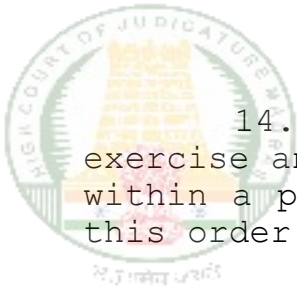
"26.As pointed out by us earlier, the time limit stipulated under Section 23 of the Act will have no application to a court decree. For the above reasons, we are of the considered view that the reasons assigned by the respondent for refusing to register the decree dated 29.04.1970 vide order dated 05.07.2018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

13.In the above circumstance, this Court has to necessarily allow the Writ Petition. The impugned proceedings of the Joint Sub Registrar No.1, Kumbakonam, dated 22.03.2019 and the subsequent confirmation order passed by the District Registrar, Kumbakonam dated 05.12.2019 are hereby set aside. The second respondent is directed to register the final decree obtained by the petitioner in I.A.No.512 of 1987 in O.S.No.309 of 1987 dated 10.12.2014 by the Court of the Principal District Munsif, Kumbakonam, insofar as the petitioner herein is concerned.



14.The second respondent is directed to carryout the said exercise and register the document if the same is otherwise in order within a period of two weeks from the date of receipt of a copy of this order. No costs.

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Sd/-

Assistant Registrar (CS-I

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

SRM

To

1. The Principal District Munsif,
Kumbakonam

2.The District Registrar (Registration),
Kumbamkonam.

3. The Joint No.1 Sub Registrar,
District Registrar Office,
Kumbakonam.

+1 CC to SPL GP (SR-2337[F] dated 29/01/2021)

+1 CC to Mr.N.DILIP KUMAR, Advocate (SR-2269[F] dated 27/01/2021)

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