



W.P.No.10742 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22.09.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.10742 of 2016
and W.M.P.No.9379 of 2016

1.Anandhi
2.R.Saravanan

.. Petitioners

Versus

1.The District Registrar
Krishnagiri District
Krishnagiri

2.The Joint Sub-Registrar-I
Krishnagiri

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ, order or direction in the nature of Writ of Certiorarified Mandamus, calling for the records pertaining to the Check Slip No.1/2016 dated 28.01.2016 and Check Slip No.2/2016 dated 08.03.2016 issued by the 2nd respondent and quash the same consequently direct the 2nd respondent to receive and register the sale deed dated 03.03.2016 executed by the 2nd petitioner on behalf of the 1st petitioner in respect of the land measuring to an extent of 3025 sq. ft. comprised in Survey No.867 of Boganappalli Village, Krishnagiri Taluk and District after receiving necessary charges.

For Petitioner : Mr.S.Thirumavalavan
For Respondents : Mr.Vijay Anand
Additional Government Pleader

ORDER

<https://www.mhc.tn.gov.in/judis> The present petition has been filed challenging the impugned order



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made in Check Slip No.1/2016 dated 28.01.2016 and Check Slip No.2/2016 dated 08.03.2016 issued by the 2nd respondent, quash the same and consequently, direct the 2nd respondent to receive and register the sale deed dated 03.03.2016 executed by the 2nd petitioner on behalf of the 1st petitioner in respect of the land measuring to an extent of 3025 sq. ft., comprised in Survey No.867 of Boganappalli Village, Krishnagiri Taluk and District.

2. The case of the petitioner is that the first had availed a loan facilities from one Mr.A.M.Srinivasan and owing to financial constraints, she could not able to repay the same. Hence, the lender filed a suit for specific performance against the petitioners before the Principal Sub-Court, Krishnagiri in OS.No.67 of 2005 and subsequently the same was ordered on 11.11.2010 directing the petitioner to pay principal amount along with 6% interest to the lender. Further, an appeal was filed by the legal heirs of the deceased lender in A.S.No.6 of 2011 before the First Appellate Court, i.e., Principal District Court, Krishnagiri and the said Court set aside the judgment and decree dated 11.11.2010. Further, CMA was filed before this Court in C.M.A.No.2486 of 2012 and the same was allowed remanding the matter back to the First Appellate Court. The First Appellate Court vide its judgment and decree dated 29.11.2013, modified to the extent of interest alone. The first petitioner



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deposited the sum on 30.09.2015, as ordered by the First Appellate Court on 29.11.2013. As against which, no appeal is filed. Thereby, the petitioner presented the judgment and decree in A.S.No.6 of 2011 dated 29.11.2013 before the respondent for registration on 27.01.2016, however, the second respondent refused to register the same, vide the impugned order on the ground that the decree has not been presented within the stipulated time as contemplated under Section 23 & 25 of the Registration Act, 1908. Hence, the present Writ Petition is filed.

3. The Learned counsel for the petitioner submits that no time limit is prescribed in the Registration Act with regard to registration of the deed through Court decree. Therefore, citing delay in presenting the document as reason for not registering the same is not sustainable.

4. The learned counsel for the petitioner would rely on a decision of the Hon'ble Division Bench of this Court in the case of ***S.Lingeswaran vs The Sub Registrar*** in ***W.P.No.9577 of 2021*** dated 23.04.2021, and in the said decision the Division Bench of this Court followed the earlier decisions reported in ***2007 (2) TCJ 68 (A.K.Gnanasankar vs. Joint -II Sub Registrar, Cuddalore)*** and ***2019 (3) MLJ 571 (S.Sarvothaman vs. The Sub-Registrar,***



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Oulgaret), wherein the Court held that, the Court decree is not a compulsorily registrable document and the option lies with the party in such circumstances. He would particularly rely on paragraphs 6 to 9 of the above decision, which are extracted hereunder:

“6. A Full Bench of the Andhra Pradesh High Court in Padala Satyanarayana Murthy Vs. Padala Gangamma, reported in AIR 1959 AP 626, has held that a decree/order passed by a competent Court is not compulsorily registrable document and the party cannot be compelled to get the document registered when there is no obligation cast upon him to register the same. Subsequently, a Division Bench of this Court in A.K.Gnanasankar Vs. Joint-II Sub Registrar, Cuddalore reported in 2007 (2) TCJ 68, has held that, a decree is a permanent record of Court and the limitation prescribed for presentation of the document under Sections 23 and 25 of the Registration Act, is not applicable to a decree presented for registration.

7. The above judgments have been followed in number of judgments of this Court and recently another Division Bench of this Court in S.Sarvothaman Vs. The Sub-Registrar, Oulgaret reported in (2019) 3 MLJ 571 has held that, as the Court decree is not a compulsorily registerable document and the limitation prescribed under the Registration Act would not stand attracted for registering any decree. The relevant portion of the judgment reads as follows:



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"21. By applying the decision in the case of Padala Satyanarayana Murthy to the facts of the case, the only conclusion that could be arrived at is that a court decree is not compulsorily registerable and that the option lies with the party. In such circumstances, the law laid down by this Court clearly states that the limitation prescribed under the Act would not stand attracted."

8. The above judgment was followed in Anitha Vs. The Inspector of Registration in W.P.No.24857 of 2014 dated 01.03.2021, wherein it is held that the Registrar cannot refuse registration of a Court decree on the ground of limitation.

9. In view of the above settled position of law, the respondent Sub Registrar cannot refuse to register the decree on the ground that it is presented beyond the period prescribed under Section 23 of the Registration Act. In such circumstances, the impugned refusal check slip issued by the respondent is not sustainable and it is liable to be set aside. Accordingly, the writ petition is allowed and the impugned order passed by the respondent is set aside and the respondent is directed to register the decree, if it is otherwise in order. No costs."

5. The learned Special Government Pleader appearing for the respondent submitted that the said application was rejected under section 23 and 25 of the Registration Act, 1908.



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6. It is not in dispute that the petitioner is in possession of a Court decree which when presented was not entertained citing delay in submission. It is to be pointed out that this Court in a catena of decisions had held that the Registrar cannot refuse registration of a Court decree on the ground of limitation. That being the case, the facts in the present case are identical to Ligeswaran's case and the ratio laid therein stands squarely attracted. Therefore, the rejection order is wholly in contravention of the order passed in *Lingeswaran's case (supra)*.

7. Accordingly, this writ petition is allowed and the impugned order passed by the second respondent is set aside and the matter is remanded to the respondent and the respondent is directed to entertain the judgment and decree in A.S.No.6 of 2011, dated 29.11.2013 passed by Principal District Court, Krishnagiri without referring the delay. No costs. Consequently, connected miscellaneous petition is closed.

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Index:Yes/No

Internet:Yes

Speaking/Non-Speaking order



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M.DHANDAPANI, J.

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To

1.The District Registrar
Krishnagiri District
Krishnagiri

2.The Joint Sub-Registrar-I
Krishnagiri

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