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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.3688 of 2022

1. S.Kowsalya
2. C.M.Vijayakumari
3. S.Lakshmi
4. C.S.Amudhan
5. C.S.Kalaivani

... Petitioners

Vs.

1. The Inspector General of Registration,
No.100, Santhome High Road,
Foreshore Estate,
Pattinapakkam,
Chennai-600 028.
2. The State of Tamil Nadu,
Represented by the Secretary
Commercial Taxes and Registration
Department, Fort St.George,
Chennai-600 009.
3. The Sub Registrar,
Kamarajapuram,
Pammal,
Chennai-600 075.
4. V.Kasthuri

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the third respondent, Sub Registrar, Pammal, Chennai-600 075 relating to the impugned notice of demand in P126/2020 dated 18.06.2020 and quash the same and directing the third respondent to give the pending Registered Document in P116/2020 to the petitioners within the time fixed by this Court.

For Petitioners

: Mr.T.V.Krishnamchari

For Respondents R1 to R3

: Mr.Yogesh Kannadasan

Special Government Pleader



ORDER

The petitioners have filed this petition for quashment of the impugned notice of demand in P126/2020 dated 18.06.2020 passed by the third respondent and directing the third respondent to give the pending Registered Document in P116/2020 to the petitioners within the time fixed by this Court.

2. The case of the petitioners is that they are close relatives and the Original Suit in O.S.No.215 of 2012 was filed on the file of the learned Principal District Judge, Chengalpattu for partition and division of the suit properties into equal shares. Thereafter, the concerned Court passed a final decree on 25.07.2019 allotting respective shares to the plaintiffs as well as the defendants therein and the possession was also settled between the parties. While so, the 2nd petitioner's deceased brother presented the certified copy of the final decree on 19.03.2020 before the third respondent to register the same by paying Rs.450/- as registration charges. As a result of which, the impugned demand notice P126/2020 dated 18.06.2020 was passed by the third respondent demanding to pay a sum of Rs.2,40,000/- as registration fee. Aggrieved by the same, the present Writ Petition is filed.

3. Learned counsel for the petitioner submits that no payment of registration charges is prescribed under the Registration Act with regard to registration of the deed through Court decree. Therefore, demand to pay Rs.2,40,000/- and non-payment of the same being stated as reason for not registering the same is not sustainable.

4. The learned counsel for the petitioners 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, Oulgarpet), 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



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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:

"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 Advocate appearing for the respondents R1 to R3 submitted that the said application was rejected solely on the ground that the Registration Charges have not been paid.

6. It is not in dispute that the petitioners are possessed of a Court decree which when presented was not entertained demanding registration charges. 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, nor can the Registrar demand registration charges for registering a Court decree. That being the case, the issue stand squarely covered by the decision in Ligeswaran's case.

7. Accordingly, this writ petition is allowed and the impugned order passed by the third respondent is set aside and the matter is remanded to the third respondent and the third respondent is directed to register the decree in O.S.No.215 of 2012 was filed on the file of the learned Principal District Judge, Chengalpattu, if it is otherwise in order. No costs.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal District Judge,
Chengalpattu.
2. The Inspector General of Registration,
No.100, Santhome High Road,
Foreshore Estate,
Pattinapakkam,
Chennai-600 028.
3. The State of Tamil Nadu,
Represented by the Secretary
Commercial Taxes and Registration
Department, Fort St.George,
Chennai-600 009.



4. The Sub Registrar,
Kamarajapuram,
Pammal,
Chennai-600 075.

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+2ccs to Mr.T.V.Krishnamachari, Advocate, S.R.No.11224

+1cc to the Government Pleader, S.R.No.12012

W.P.No.3688 of 2022

MT (CO)
SU (15/03/2022)