



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.5671 OF 2022

Minor P.D.Kirubhashini,  
Represented by her mother  
P.Dhanalakshmi

... Petitioner

Vs.

1. The District Registrar,  
District Registrar's Office,  
Tiruppur District.
2. The Sub Registrar,  
Sub Registrar's Office,  
Palladam.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the second respondent to register the certified copy of the decree and judgment dated 21.12.2018 in O.S.No.329/2011, on the file of the District Munsif Court, Palladam on payment of registration charges without insisting any payment of stamp duties and without insisting on the period of limitation under Section 23 of the Registration Act, 1908.

For petitioner : Mr.S.Sithirai Anandam

For Respondents : Mr.Yogesh Kannadasan  
Special Government Pleader

ORDER

The petitioner has filed this petition seeking direction to the second respondent to register the certified copy of the decree and judgment dated 21.12.2018 in O.S.No.329/2011, on the file of the District Munsif Court, Palladam on payment of registration charges without insisting any payment of stamp



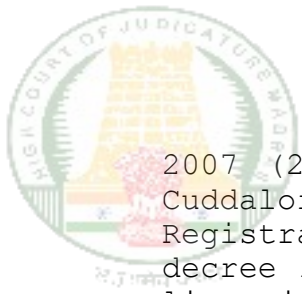
duties and without insisting on the period of limitation under Section 23 of the Registration Act, 1908.

2. Mr. Yogesh Kannadasan, learned Special Government Pleader takes notice for the respondents. In view of the limited relief sought for in this petition and on the consent expressed by the learned counsel appearing on either side, this petition is taken up for final disposal.

3. The case of the petitioner is that originally, the subject matter of the property belongs to Muthusamy Gounder and Sami Gounder, by virtue of the partition deed dated 10.09.1996. As per the partition deed, it reveals that 'A' Schedule was allotted in favour of Samy Gounder and 'B' Schedule was allotted in favour of Muthusamy Gounder. In respect of the partition deed, Muthusamy Gounder was in possession and enjoyment of the respective shares as per the terms of the partition deed dated 10.09.1996. Thereafter, the above said Muthusamy Gounder died on 29.12.2009 leaving behind his sons and wife, namely, Palanisamy, Swaminathan and Devi Aathal as legal heirs to succeed his property. As per the Hindu Succession Act came into force by inheritance each of the legal heir entitled to 1/9<sup>th</sup> share. Thereafter, the petitioner filed a suit for partition in the subject matter of the property against the said Palanisamy on the file of the Hon'ble District Munsif Court, Palladam. Subsequently, petitioner's daughter has also filed the suit in O.S.No.329/2001 on the file of the Hon'ble District Munsif Court, Palladam for directing the Palanisamy to pay the maintenance a sum of Rs.2000/- per month and Rs.6000/- per annum towards clothing, education and other expenses, and the common judgment was passed in favour of the petitioners by order dated 21.12.2018. Thereafter, the petitioner presented a document with a certified copy of the decree and judgment for registration on 18.11.2021 before the second respondent. However, the said document was rejected on the ground that the date of execution is before the date of purchase of stamp paper and the presentation of documents for registration exceeds eight months from the date of execution. Challenging the same, the present writ petition has been filed by the petitioner.

4. Though very many grounds have been raised, learned counsel for the petitioner submits that, no time limit is prescribed in the Registration Act. Citing the reason for delay in presenting the document is not sustainable.

5. 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, 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 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



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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.

6. The learned Special Government Pleader appearing for the respondents submit that the said application was rejected under section 23 of the Registration Act.

7. Considering the facts and circumstances, admittedly, petitioners obtained the decree and judgment, when the document was presented. However, the document was rejected by citing section 23 of the Registration Act. The rejection order is wholly in contravention of the order passed in Lingeswaran's case (supra), ratio is squarely applicable to the present case.

8. Accordingly, this writ petition is allowed and the impugned order passed by the respondent is set aside and the second respondent is directed to register the decree in O.S.No.329 of 2011 dated 21.12.2018 passed by the District Munsif Court, Palladam. No costs.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

tri/nhs

To

1. The District Registrar,  
District Registrar's Office,  
Tiruppur District.
2. The Sub Registrar,  
Sub Registrar's Office,  
Palladam.



Copy To

The District Munsif,  
Palladam

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+1cc to Mr.S.Sithirai Anandam , Advocate, S.R.No.17233  
+1cc to the Government Pleader, S.R.No.17763

W.P.No.5671 of 2022

GPL (CO)  
PM/30/03/2022