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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.6853 OF 2022

AND

W.M.P.NO.6912 OF 2022

Srinivasan

...Petitioner

Vs.

The Sub Registrar,
Mecheri,
Salem District.

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records with respect of the impugned proceedings passed by the respondent in Check Slip No.05/2022 dated 22.02.2022 and quash the same and consequently directing the respondent herein to register the final decree proceedings dated 21.07.1999 passed in O.S.No.295 of 1999 on the file of the Sub Court, Mettur.

For petitioner : M/S.T.Venkatesan

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus to call for the records with respect of the impugned proceedings passed by the respondent in Check Slip No.05/2022 dated 22.02.2022 and quash the same and consequently direct the respondent herein to register the final decree proceedings dated 21.07.1999 passed in O.S.No.295 of 1999 on the file of the Sub Court, Mettur.

2. Mr.Yogesh Kannadasan, learned Special Government Pleader takes notice for the respondent. 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 the petitioner's father had filed a Suit for partition in O.S.No.295 of 1999 on the file of the Sub Ordinate Court, Sankari. Subsequently, the case was transferred to the Sub-Court, Mettur. The said Suit was decreed on 21.07.1999 to effect partition, the petitioner's father filed an application for passing final decree in I.A.No.305 of 1999 in O.S.No.295 of 1999. The Sub Court has passed the final decree on 21.07.1999 in I.A.No.305 of 1999 in O.S.No.295 of 1999, by allotting the shares to the petitioner's father and other legal heirs. Pursuant to the final decree, the petitioner's father is in the possession of the property. After the demise of the petitioner's father, the petitioner is in possession of the property and he verified the Encumbrance Certificate, from which, he came to know that the Court's decree was not registered in the office of the respondent. Thereafter, the petitioner filed copy application before the Civil Court and after receipt of the certified copy of the Judgment and Decree, in the said suit, the same were presented before the respondent for registering the Court's decree through Checkslip No.05/2022 dated 26.11.2019. However, the said document was refused to be registered by the respondent on the ground that the decree has not been presented for registration within the stipulated time. Challenging the same, the petitioner has filed the present Writ Petition.

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

5. The learned counsel for the petitioner would relied 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. In the said decision, the Division Bench of this Court followed the earlier Division Bench decisions of this Court 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's 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 in W.P.No.9577 of 2021, 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



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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."

6. The learned Special Government Pleader appearing for the respondent submitted that, the application of the petitioner, seeking registering the Civil Court's decree was rejected under Section 23 of the Registration Act.



7. Considering the facts and circumstances, admittedly, the petitioner obtained a final decree dated 21.07.1999 in O.S.No.295 of 1999. When the said final decree was presented before the respondent for register the same, it 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), and ratio laid down therein 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 respondent is directed to register the final decree in O.S.No.295 of 1999 dated 21.07.1999 passed by the Sub Court, Mettur in accordance with law, if otherwise in order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

jd/skt

To

1.The Sub Registrar,
Mecheri,
Salem District.

2.The Sub Court,
Mettur.

+1cc to M/s.T.Venkatesan, Advocate, Sr.No.20474

W.P.No.6853 of 2022
and
W.M.P.No.6912 of 2022

SKM(CO)
RVM(11/04/2022)