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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.03.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.6335 of 2022
and W.M.P.No.6435 of 2022

Kittusamy

...Petitioner

Vs.

1.The Inspector General of Registration,
No.100, Santhome High Road,
Fareshore Estate,
Pattinappakkam,
Chennai-28.

2.The Joint Sub Registrar No.1,
(In the grade of Registrar),
No.1/3 Vignesh Complex,
Near Sivan Theatre,
Postal Colony, 60 feet Road,
Tirupur-641602.

3.Rangasamy Balu
4.Pazhanisamy
5.Chinna Rangasamy
6.Pappammal
7.Arjunan
8.Mayilasamy

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the order of the 2nd respondent dated 01.03.2022 in No.RFL/Joint Sub Registrar No.1 Tiruppur/58/2022 and quash the same and consequently direct the respondent to register the compromise decree dated 30.04.2000 made in O.S.No.653 of 2000, on the file of the Sub Court at Tiruppur within the stipulated time as may be fixed by this Hon'ble Court.

For Petitioner : Mr.N.Umapathi
For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader



O R D E R

This Writ Petition has been filed seeking for issuance of a Writ of Certiorari Mandamus to call for the records relating to the order of the 2nd respondent dated 01.03.2022 in No.RFL/Joint Sub Registrar No.1 Tiruppur/58/2022 and quash the same and consequently direct the respondent to register the compromise decree dated 30.04.2000 made in O.S.No.653 of 2000, on the file of the Sub Court, Tiruppur, within the stipulated time as may be fixed by this Court.

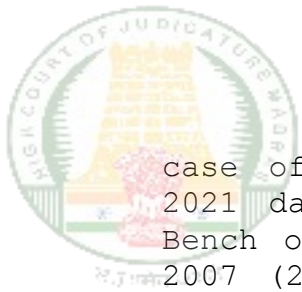
2. The learned Special Government Pleader takes notice for the official respondents. In view of the limited relief sought for in this petition and on the consent of the learned counsel appearing on either side, this petition is taken up for final disposal.

3. Since no adverse orders are being passed as against the private respondents, notice to the private respondents is dispensed with.

4. The case of the petitioner is that the petitioner acquires the property bearing S.F.No.474 and 472/2 to an extent of 2.17 $\frac{3}{4}$ Acres situated at Thottipalayam Village, Tiruppur District. The petitioner's brothers are shown as respondents 3 to 9. The respondents 3 to 5 have filed a suit in O.S.No.653 of 2000, on the file of the Sub Court, Tiruppur, for partition and separate possession. The said suit was compromised by virtue of Judgment and Decree dated 30.04.2001, on the strength of the compromised memo filed by both parties in I.A.No.734/2021 in O.S.No.653/2000, on the file of the Sub Court, Tiruppur. The petitioner has presented the compromise decree to the 2nd respondent, on 01.03.2020, to register the same. However, the said compromise decree was refused by the 2nd respondent on 01.03.2022, on the ground that the decree was passed on 30.04.2001 and thus the decree cannot be registered beyond the period of limitation in view of the Section 23 of the Registration Act, 1908. Aggrieved with the same, this Writ petition is filed with the aforesaid prayer.

5. 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.

6. 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, Oulgarpet 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."



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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.

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

8. Considering the facts and circumstances, admittedly, the petitioner and her brothers obtained compromise decree. 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.

9. Accordingly, this writ petition is allowed and the impugned order passed by the 2nd respondent is set aside and the 2nd respondent is directed to register the decree in O.S.No.653 of 2020, dated 30.04.2020 passed by the Sub Court, Tiruppur, if it is otherwise in order. No costs. Consequently, the connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

Psa



To

1.The Inspector General of Registration,
No.100, Santhome High Road,
Fareshore Estate,
Pattinappakkam,
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(In the grade of Registrar),
No.1/3 Vignesh Complex,
Near Sivan Theatre,
Postal Colony, 60 feet Road,
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+1 CC to Mr.N.Umapathi, Advocate sr 18892
+1 CC to The Special Government Pleader sr 19505.

W.P. No.6335 of 2022

SKM(CO)
SP(05/04/2022)