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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.7219 of 2022

K.Loganathan

... Petitioner

Vs.

1.The District Registrar,
Registration Department,
Erode,
Erode District.

2.The Sub Registrar,
Sivagiri Sub Registrar Office,
Sivagiri,
Erode District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order made in Na.Ka.No.391/2022, dated 19.01.2022 passed by the second respondent, quash the same and consequently, direct the second respondent to register the Final Decree dated 31.10.2000 made in I.A.No.660 of 1999 in O.S.No.199 of 1998 passed by the learned Principal Sub Court, Erode, presented for registration on 16.08.2021 and release the same after due registration.

For petitioner : Mr.N.Manokaran

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

The petitioner has filed this petition to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order made in Na.Ka.No.391/2022, dated 19.01.2022 passed by the second respondent, quash the same and consequently, direct the second respondent to register the Final Decree dated 31.10.2000 made in I.A.No.660 of 1999 in O.S.No.199 of 1998 passed by the learned Principal Sub Court, Erode,



presented for registration on 16.08.2021 and release the same after due registration.

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 petitioner along with her mother and sister had filed a suit in O.S.No.199 of 1998 on the file of the Principal Sub-Court, Erode, seeking for partition and separate possession, against her father. Thereafter, the said suit was decreed on 31.10.2000, by the Principle Sub Court, Erode. Thereafter, the petitioner presented a document on 16.08.2021, based on the final decree for registration before the second respondent. However, the said document was refused to be registered by the second respondent on the ground that the decree has not been presented for registration within the time stipulated. 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



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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 respondents submits that the said application was rejected under section 23 of the Registration Act.



7. Considering the facts and circumstances, admittedly, the petitioner obtained the final decree. When the document was presented, 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 second respondent is set aside and the second respondent is directed to register the decree in I.A.No.660 of 1999 in O.S.No.199 of 1998 dated 31.10.2000 passed by the Principal Sub Court, Erode, if it is otherwise in order, and after payment of necessary Stamp duty and Registration Charges. No costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

tri/nhs
To

1.The District Registrar,
Registration Department,
Erode,
Erode District.

2.The Sub Registrar,
Sivagiri Sub Registrar Office,
Sivagiri,
Erode District.

+lcc to M/s.N.Manokaran, Advocate Sr.21186
+lcc to the Government pleader Sr.21739

W.P.No.7219 of 2022

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srg 25/04/2022