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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2022

CORAM

THE HONOURABLE Mr. JUSTICE M.DHANDAPANI

W.P.No.8001of 2022

V.Loganayagi

...Petitioner

Vs

The Sub Registrar,
The Office of Sub Registrar,
Dharapuram.

...Respondent

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent to register the judgment and decree passed in O.S.No.243 of 2016 in terms of order passed in CRP.No.3989/2019 by this Hon'ble Court without insisting for payment of Stamp Duty and without insisting on the period of limitation under Section 23 of the Registration Act.

For Petitioner : Mr.Abrar Mohammed Abdullah

For Respondent : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

This writ petition has been filed to issue a Writ of Mandamus, to direct the respondent to register the judgment and decree passed in O.S.No.243 of 2016 in terms of order passed in CRP.No.3989/2019 by this Court without insisting for payment of Stamp Duty and without insisting on the period of limitation under Section 23 of the Registration Act.

2. The case of the petitioner is that the petitioner filed a suit in O.S.No.243 of 2016, on the file of Sub Court, Dharapuram and the same was decreed on 10.11.2016, not satisfied with the same the petitioner filed C.R.P.No.3989 of 2019, before this Court. The said petition was decreed, by this Court, on 26.02.2020 by way of a Joint Compromise Memo. On receipt of the said judgment, the petitioner presented the same before the respondent, however, the respondent refused to register the same



on the ground that the decree has been presented for registration beyond the period of limitation, from the date of receipt of a copy of the same. Hence, the present Writ Petition is filed.

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3. Learned counsel for the petitioner submits that no time limit is prescribed in the Registration Act with regard to registration of the deed through Court decree. Therefore, citing delay in presenting the document as reason for not registering the same is not sustainable.

4. 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:



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"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 respondent submitted that the said application was rejected under section 23 of the Registration Act.

6. It is not in dispute that the petitioner is possessed of a Court decree which when presented was not entertained citing delay in submission. 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. That being the case, the facts in the present case are identical to Ligeswaran's case and the ratio laid therein stands squarely attracted. Therefore, the rejection order is wholly in contravention of the order passed in Lingeswaran's case (supra).



7. Accordingly, this writ petition is disposed of and the respondent is directed to register the decree in O.S.No.243 of 2016 in terms of order passed in C.R.P.No.3989 of 2019, dated 26.02.2020, by this Court, without referring the delay, if it is otherwise in order, on payment of necessary Stamp Duty and Registration Charges. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

Psa

To

The Sub Registrar,
The Office of Sub Registrar,
Dharapuram.

+1cc to Mr.Abrar Mohammed Abdullah, Advocate, S.R.No.22829
+1cc to the Government Pleader, S.R.No.23655

WP.No.8001of 2022

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