



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.8605 OF 2022

Rajathi

... Petitioner

Vs.

1. The Inspector General of Registration,
Chennai - 600 028.
2. The District Registrar,
District Registrar Office,
Krishnagiri.
3. The Sub Registrar,
Sub-Registrar Office, Bargur,
Krishnagiri.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to register the decree and Judgment dated 24.07.2019 in I.A.No.276/2018 in O.S.No.83/2017 passed by the Hon'ble Principal District Court, Krishnagiri.

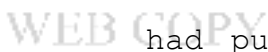
For petitioner : Mr.G.Babu

For Respondent : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

The petitioner has filed this petition seeking direction to the respondents to register the decree and Judgment dated 24.07.2019 in I.A.No.276/2018 in O.S.No.83/2017 passed by the Principal District Court, Krishnagiri.

2. Mr.Yogesh Kannadasan, learned Special Government Pleader takes notice for the respondents. In view of the limited



3. The case of the petitioner is that the petitioner had purchased the property comprised in S.No.641/1B, measuring an extent of 1500 Sq.ft, situated at Bargur Village by a Sale Deed dated 01.04.2006, bearing document no.603/2006. Thereafter, the petitioner had executed the said property in favour of his son by a registered gift Settlement Deed dated 01.02.2007. After executing the Settlement Deed, the petitioner's son was died on 01.07.2015, leaving behind the petitioner, his wife and children. Thereafter, there was some dispute, thereby the petitioner filed a suit in O.S.No.83/2017 on the file of the Principal District Judge, Krishnagiri, for partition of 1/3rd share in the above said property and the preliminary decree was passed in favour of the petitioner on 12.06.2018. Thereafter, the final decree in I.A.No.276/2018 was passed on 24.07.2019. Thereafter, the petitioner had presented the document before the third respondents on 25.10.2021 for registering the said final decree. However, the said document was refused to be registered by the third respondent on the ground that the document was not presented for registration within a period of four months from the date of passing of final decree. Challenging the same, the present Writ Petition has been filed by the petitioner for the above relief.

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:

<https://hcservices.ecourts.gov.in/hcservices/>



WEB COPY

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 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.



WEB COPY

6. The learned Special Government Pleader appearing for the respondent 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 third respondent is directed to register the decree and Judgement in I.A.No.276 of 2018 in O.S.No.83 of 2017 dated 24.07.2019 passed by the Principal District Court, Krishnagiri, if it is otherwise in order, on payment of requisite Stamp Duty and Registration Charges by the petitioner. No costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

tri/mn

To

1. The Inspector General of Registration,
Chennai - 600 028.

2. The District Registrar,
District Registrar Office,
Krishnagiri.

3. The Sub Registrar,
Sub-Registrar Office, Bargur,
Krishnagiri.

+2ccs to Dr.G.Babu, Advocate, S.R.No.24229

+1cc to the Government Pleader, S.R.No.25102

W.P.No.8605 of 2022

MG(CO)
RLP(28/04/2022)