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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.9600 OF 2022
W.M.P.NO.9339 OF 2022

R.Pushpavathy

... Petitioner

Vs.

1. The District Registrar,
Office of the District Registrar,
Registration Department,
Tiruppur,
Tiruppur District.
2. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Tiruppur,
Tiruppur District.
3. The Tahsildar,
Tiruppur North Taluk,
Tiruppur,
Tiruppur District.
4. K.Paramasivam
5. P.Sivakumar

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records in connection with the impugned order dated 28.02.2022 passed by the first respondent in petition No.61/2021 and quash the same and consequently direct the first respondent to cancel the illegally and fraudulently registered documents in the Doc.Nos.384/2015 and 385/2015 dated 22.01.2015 pending on the file of the first respondent and incidentally make necessary entries in the Encumbrance Certificate.



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For petitioner : Mr.I.Abrar Mohamed Abdullah
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 in connection with the impugned order dated 28.02.2022 passed by the first respondent in petition No.61/2021 and quash the same and consequently direct the first respondent to cancel the illegally and fraudulently registered documents in the Doc.Nos.384/2015 and 385/2015 dated 22.01.2015 pending on the file of the first respondent and incidentally make necessary entries in the Encumbrance Certificate.

2. Mr.Yogesh Kannadasan, learned Special Government Pleader takes notice for the respondents 1 to 3. 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.Since, no adverse order being passed against the fourth and fifth respondents. Notice to the fourth and fifth respondents is dispensed with.

4. The case of the petitioner is that the properties comprised in S.F.No.137/2A2, measuring an extent of 1.25 acres, situated at Nallur Village, belongs to petitioner's father. Thereafter, the petitioner's father executed the Settlement Deed dated 30.12.2012 in favour of petitioner. However, the fourth and fifth respondents in order to grab the property, they illegally obtained the Settlement Deeds in Doc.Nos.384/2015 and 385/2015. Challenging the same, the petitioner filed I.A.No.685/2015 in O.S.No.247 of 2015 on the file of the Principal Sub-Court, Tiruppur and obtained decree in his favour. Thereafter, the petitioner had made an application on 06.12.2021 before the first respondent to cancel the fraudulent document nos.384/2015 and 385/2015, and the same was rejected by the first respondent, by order dated 28.02.2022 on the ground that, petitioner had made application beyond the period of four years from the date of obtaining decree in his favour. Challenging the same, the present writ petition has been filed by the petitioner.

5. When the matter is taken up for hearing, learned counsel for the petitioner submits that the issue raised in the



present petition is no longer res integra. He further 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, wherein the Division Bench following its earlier decisions 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), 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."

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.

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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 Pleader appearing for the respondent submits that the said application was rejected under section 23 of the Registration Act.

8. Considering the facts and circumstances, admittedly, the petitioner obtained the decree in his favour. 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 Lingewaran's case (supra), which ratio is squarely applicable to the present case.

9. In view of the above, this Court is inclined to set aside the impugned order passed by the first respondent and permits the petitioner to present the document before the Jurisdictional Sub-Registrar within a period of two weeks from the date of receipt of a copy of this order. If such a document is presented the Jurisdictional Sub-Registrar is directed to register the document without referring to any delay, within a period of four weeks, if it is otherwise in order, on payment of requisite Stamp Duty and Registration Charges by the petitioner.

10. Accordingly, this writ petition is disposed of with the aforesaid direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The District Registrar,
Office of the District Registrar,
Registration Department,
Tiruppur,
Tiruppur District.
2. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Tiruppur,
Tiruppur District.
3. The Tahsildar,
Tiruppur North Taluk,
Tiruppur,
Tiruppur District.

Copy To

The Sub Registrar,
Registration Department,
Tiruppur, Tiruppur District.

+1cc to the Special Government Pleader, S.R.No.26764

W.P.No.9600 of 2022
W.M.P.No.9339 of 2022

SKM(CO)
RLP(11/05/2022)