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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.11205 OF 2022

D.Mageswari

...Petitioner

Vs.

1.The Inspector General of Registration,
Registration Department,
Santhome, Chennai-4.

2.The Joint Sub-Registrar I,
Sub-Registrar Office,
Vellore.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to register the sale deed bearing Pending Document No.110 of 2021, dated 04.08.2021 on the file of the second respondent as a regular document and release the same to the petitioner.

For Petitioner : Mr.M.Venkatakkrishnan

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

The petitioner has filed this petition seeking for issuance of a Writ of Mandamus to direct the respondents to register the sale deed bearing Pending Document No.110 of 2021, dated 04.08.2021 on the file of the 2nd respondent and release the same to the petitioner.

2. The case of the petitioner is that, she has entered into an agreement of sale with one P.Natarajan for purchase of agricultural lands measuring an extent of 2.82 Acres comprised in S.Nos.51, 52/1 and 53, under Patta No.354, situated at Thellur village, Vellore taluk, Vellore District under sale agreement dated 30.03.2009 in Doc.No.2828 / 2009. Whiles, as the said Natarajan, the land owner refused for execution of sale deed within the stipulated time, the petitioner filed a suit in O.S.No.118 of 2010 on the file of the Additional Subordinate



Judge, Vellore. Thereafter, the said suit was decreed in favour of the petitioner, granting specific performance of the sale agreement dated 30.03.2009. Pursuant to the said decree, the petitioner after depositing the balance amount, levied execution of decree, vide O.E.P.No.83 of 2019 on the file of the Principal Subordinate Judge and the Execution Court executed the sale deed on 17.03.2020 and directed the registry to submit the same for registration before the 2nd respondent. However, due to Covid-19 pandemic, the same was not complied within the stipulated time. Thereafter, an appointment for registration was fixed online on 02.08.2021 and the sale deed was submitted before the 2nd respondent on 04.08.2021 for registration, however, the 2nd respondent refused to complete the registration on the ground that the document was not presented within the time stipulated under Section 23 of the registration Act, 1908 and delay being more than six months not condonable under Section 25 and kept it as Pending Doc.No.110 of 2021. Hence, aggrieved by the same, the present Writ Petition is filed.

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.

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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."

5. The learned Special Government Pleader appearing for the respondents submitted that the said document was kept pending on the ground of delay in presentation as per section 23 and 25 of the Registration Act, 1908.



6. It is not in dispute that the petitioner is in possession 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, keeping the document presented as pending is wholly in contravention of the order passed in Lingeswaran's case (supra).

7. Accordingly, this writ petition is disposed of and the matter is remanded back to the 2nd respondent and the 2nd respondent is directed to register sale deed bearing Pending Doc.No.110 of 2021 dated 04.08.2021 in the light of the decree passed in O.S.No 118 of 2010 dated 27.09.2018 on the file of the learned Principal Subordinate Judge, Vellore without referring the delay. No costs.

Sd/-
Assistant Registrar (CS-VI)

// True Copy //

Sub Assistant Registrar

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To

- 1.The Additional Subordinate Judge,
Vellore.
- 2.The Principal Subordinate Judge,
Vellore.
- 3.The Inspector General of Registration,
Registration Department,
Santhome, Chennai-4.
- 4.The Joint Sub-Registrar I,
Sub-Registrar Office,
Vellore.

+1cc to Mr.M.Venkatakkrishnan, Advocate Sr.No.30283

+1cc to the Special Government Pleader Sr.No.31053

W.P.No.11205 of 2022

SKM(CO)
RVM(10/06/2022)