



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.11171 of 2022

Tamilalagan

...Petitioner

Vs.

The Sub-Registrar,
Office of the Sub-Registrar,
Jalagandapuram, Salem District.

...Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the impugned proceedings of the respondent dated 18.02.2022 in Check Slip No.1 of 2022, quash the same and consequently direct the respondent herein to register the certified copy of Preliminary decree dated 20.02.2015 made in O.S.No.176 of 2012 and Final Decree dated 20.11.2017 made in I.A.No.760 of 2015 in O.S.No.176 of 2012 on the file of the Hon'ble I Additional District Court, Salem, within a time frame that may be fixed by this Hon'ble Court.

For Petitioner	: Mr.J.Ramakrishnan
For Respondents	: Mr.Yogesh Kannadasan, Special Government Pleader

ORDER

The petitioner has filed this Writ petition for quashment of the proceedings of the respondent dated 18.02.2022 in Check Slip No.1 of 2022 refusing to register the Preliminary decree dated 20.02.2015 made in O.S.No.176 of 2012 and Final Decree dated 20.11.2017 made in I.A.No.760 of 2015 in O.S.No.176 of 2012 on the file of the I Additional District Court, Salem and for a consequential direction to the respondent to register the same.

2. The case of the petitioner is that, his father viz., Annamalai filed a suit in O.S.No.176 of 2012 on the file of the I Additional District Judge Court, Salem for partition and separate possession as against the other family members, claiming 2/3rd share in respect of the suit properties comprised S.No.516/1. The petitioner's father claimed 1/3rd share based on



inheritance and another 1/3rd share based on decree dated 21.12.2005 passed in Performance Suit in O.S.No.131 of 2005 on the file of the District Munsif Court, Sankari. Further, the preliminary decree in the said suit in O.S.No.176 of 2012 was passed on 20.02.2015 and subsequently, the final decree was passed on 20.11.2017 by the I Additional District Judge Court, Salem, allotting 3.26 acres out of 4.89 acres in New.S.No.516/1A to plaintiffs therein. Thereafter, Execution Petition was filed for delivery of possession in R.E.P.No.171 of 2018 in O.S.No.176 of 2012 and possession was delivered to the plaintiffs on 27.10.2021. Immediately thereafter, the said Preliminary decree dated 20.02.2015 and Final Decree dated 20.11.2017 on the file of the I Additional District Court, Salem were presented before the respondent for registration on 18.02.2022, however, the respondent refused to register the same, vide Check Slip No.1 of 2022 dated 18.02.2022, on the ground that the decree has been presented for registration beyond the time period stipulated, which is contrary to the period stipulated in Section 23 & 25 of the Registration Act, 1908. Hence, challenging the same, the present Writ Petition is filed.

3. Learned counsel for the petitioner submits that the petitioner applied for certified copy of the said decree on 02.11.2011 in Copy Application Number 8841 of 2021 and the same was made ready on 21.01.2021 and was received only on 23.12.2021. He further submitted 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. Hence, he prayed for appropriate orders.

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



WEB COPY

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."



5. Learned Special Government Pleader appearing for the respondent submitted that the said application was rejected under section 23 and 25 of the Registration Act, 1908.

6. Heard the arguments advanced on either side and perused the materials available on record.

7. 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, the rejection order is wholly in contravention of the order passed in Lingeswaran's case (supra).

8. Accordingly, this writ petition is allowed and the impugned order passed by the respondent is set aside and the matter is remanded to the respondent and the respondent is directed to register the Preliminary decree dated 20.02.2015 made in O.S.No.176 of 2012 and Final Decree dated 20.11.2017 made in I.A.No.760 of 2015 in O.S.No.176 of 2012 passed by the I Additional District Court, Salem without referring the delay. No costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

skt

To

1. The I Additional District Judge,
Salem.

2. The Sub-Registrar,
Office of the Sub-Registrar,
Jalagandapuram, Salem District.

+1cc to Mr.J.Ramakrishnan, Advocate, S.R.No.32159

W.P.No.11171 of 2022

PL[co]
NSK/17/06/2022