



W.P.No.13001 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2022

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.13001 of 2022

1. Narayanamma

2. Venkatesappa

...Petitioners

Vs.

1. The Inspector General of Registration,
O/o. The Inspector General of Registration,
No.100, Santhome High Road,
Foreshore Estate, Chennai-600 028.

2. The District Registrar,
O/o. The District Registrar,
Krishnagiri District, Krishnagiri.

3. The Sub Registrar,
O/o. The Sub-Registrar,
Soolagiri, Krishnagiri District.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent relating to the Refusal Check Slip No.RFL/Soolagiri/39/2022 dated 25.04.2022 and quash the same and further direct the 3rd respondent to register the Court Decree in O.S.No.9/2019 dated 27.02.2020 passed by the Learned Additional District Judge, Hosur within a stipulated period fixed by this Hon'ble Court.



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For Petitioners : Mr.C.Samivel

For Respondents : Mr.E.Sundaram, GA

ORDER

The petitioners have filed this petition for quashment of the proceedings of the 3rd respondent dated 25.04.2022 refusing to register the Court decree dated 27.02.2020 made in O.S.No.9/2019 on the file of the Additional District Judge, Hosur and for a consequential direction to the 3rd respondent to register the same.

2. The case of the petitioners is that the properties comprised in S.Nos.39/7, 81/5C, 190/1A, 190/1B, 190/3C, 190/1D, 60/1, 67/3A & 68/2, totally measuring an extent of 9 Acres 72 cents, situated at A.Chettipalli Village, Soolagiri Taluk were originally owned by one Venkatasamy and Venkatamma, the maternal grandfather and grandmother of the 1st petitioner. Upon love and affection, the said Venkatasamy and Venkatamma executed a registered will in favour of the petitioners in respect of the above said properties, pursuant to which, the petitioners are in absolute possession



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and enjoyment of the said properties. While so, the 1st petitioner's mother namely, Rangamma executed a Gift settlement deed in favour of one Mohan in respect of the very same subject properties. Immediately, the petitioners filed a Suit in O.S.No.9 of 2019 on the file of the Learned Additional District Judge, Hosur, seeking permanent injunction and declaration to declare the above said Gift settlement deed dated 06.08.2018 as null and void and the said suit was decreed in favour of the petitioners on 27.02.2020. Thereafter, the petitioners presented the above said decree made in O.S.No.9/2019 before the 3rd respondent for registration on 25.04.2022, however, the 3rd respondent has refused to register the same, vide Refusal Check Slip No. RFL/Soolagiri/39/2022 dated 25.04.2022, on the ground that the decree has been presented for registration after 2 years, which is contrary to the period stipulated in Section 23 of the Registration Act, 1908. Hence, the present Writ Petition is filed.

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



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4. Learned counsel for the petitioners 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."



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5. Learned Government Advocate appearing for the respondents

submitted that the petitioners presented the Court Decree after a period of 2 years from the date of passing of the said decree, hence, the same was rejected on the ground of delay under section 23 & 25 of the Registration Act, 1908.

6. It is not in dispute that the petitioners are 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 Lingeswaran'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 **allowed** and the order impugned in this Writ petition is set aside and the matter is remanded to the 3rd respondent and the 3rd respondent is directed to entertain the decree in



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O.S.No.9/2019 dated 27.02.2020 passed by the Learned Additional District

Judge, Hosur without referring the delay. No costs.

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Speaking Order : Yes/ No

Index : Yes/ No

To

1. The Inspector General of Registration,
O/o. The Inspector General of Registration,
No.100, Santhome High Road,
Foreshore Estate, Chennai-600 028.
2. The District Registrar,
O/o. The District Registrar,
Krishnagiri District, Krishnagiri.
3. The Sub Registrar,
O/o. The Sub-Registrar,
Soolagiri, Krishnagiri District.



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