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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.14477 OF 2022

G.Ramamurthy

... Petitioner

.Vs.

1. The Inspector General of Registration,
100, Santhome High Road,
Pattinapakkam,
Chennai - 600 028.

2. The Sub-Registrar,
Chennai South,
Selaiyur, Chennai.

... Respondents

PRAYER:-

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the entire records from the 2nd respondent in connection with the impugned proceedings/Refusal Check Slip No.RFL/Selaiyur/11/2022 dated 24.05.2022, quash the same, and consequential direction, directing the 2nd respondent to register the Certified Copy of the Consent Decree dated 23.08.2016 passed in O.S.No.410 of 2006, on the file of the Additional District Judge, Kancheepuram at Chengalpattu, on payment of registration charges alone without insisting for payment of any stamp duty and without insisting on the period of limitation under Section 23 of the Registration Act, 1908.

For Petitioner : Mr.V.Srikanth

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader



ORDER

The petitioner has filed this Writ petition for quashment of the proceedings of the 2nd respondent dated 24.05.2022 in Refusal Check Slip RFL/Selaiyur/11/2022, refusing to register the Court Decree dated 23.08.2016 passed in O.S.No.410 of 2006, on the file of the Additional District Judge, Kancheepuram at Chengalpattu and for a consequential direction to the 2nd respondent to register the same.

2. Learned Special Government Pleader takes notice for the respondents. In view of the consent expressed by the learned counsel on either side, this petition is taken up for final disposal.

3. The case of the petitioner is that, he filed a suit in O.S.No.410 of 2006 on the file of District Judge at Chengalpattu, against his brothers, seeking partition of his 1/5th share in the suit property. When the said suit was pending, the petitioner and his brothers settled the issue amicably among themselves. Accordingly, a Memorandum of Compromise dated 02.11.2015 was filed before the Trial Court and thereby, the suit was decreed on 23.08.2016, in terms of the compromise entered into between the parties. Subsequently, when the petitioner presented the said Consent Decree dated 23.08.2016 passed in O.S.No.410 of 2006 for registration on 24.05.2022, the same was rejected by the 2nd respondent, vide proceedings dated 24.05.2022 in Refusal Check Slip No.RFL/Selaiyur/11/2022, on the ground that the decree has not been presented for registration within the time prescribed under Section 23 & 25 of the Registration Act, 1908. Hence, the present Writ Petition is filed.

4. Learned counsel for the petitioner submits that no time limit is prescribed in the Registration Act, 1908 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. Hence, he prayed for appropriate orders.

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:

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"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, 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



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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."

6. The learned Special Government Pleader appearing for the respondents submitted that the said application was rejected under section 23 and 25 of the Registration Act, 1908.

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 2nd respondent is set aside and the matter is remanded to the 2nd respondent and the 2nd respondent is directed to register the decree dated 23.08.2016 passed in O.S.No.410 of 2006, by the Additional District Judge, Kancheepuram at Chengalpattu without referring the delay. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

skt

To

1. The Inspector General of Registration,
100, Santhome High Road,
Pattinapakkam, Chennai - 600 028.



2. The Sub-Registrar,
Chennai South,
Selaiyur, Chennai.

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+1cc to Mr.V.Srikanth, Advocate, S.R.No.34838
+1cc to the Government Pleader, S.R.No.35360

W.P.NO.14477 OF 2022

RSV(CO)
PBS/29/06/2022