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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.14435 OF 2022

AND

W.M.P.NO.13651 OF 2022

Krishnan

...Petitioner

Vs.

The Sub Registrar,
Mecheri Sub Registrar Office,
Salem District.

...Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned refusal Check Slip dated 11.04.2022 in RFL/Mecheri/11/2022 by the respondent quash the same and consequently direct the respondent to register the judgement and decrees dated 14.07.1999 made in O.S.No.537 of 1996 on the file of the District Munsif Court, Mettur.

For Petitioner : Mr.R.Prabakar

For Respondent : Mr.Yogesh Kannadasan, Spl.GP

ORDER

The petitioner has filed this Writ petition for quashment of the proceedings of the respondent dated 11.04.2022 in RFL/Mecheri/11/2022, refusing to register the Court decrees dated 14.07.1999 made in O.S.No.537 of 1996 on the file of the District Munsif Court, Mettur and for a consequential direction to the respondent to register the same.

2. Learned Special Government Pleader takes notice for the respondent. 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, the properties in R.S.Nos.150/5, 150/6 corresponding to subdivided Survey Nos.150/5B and 150/6B Amani M.Kalipatti Village, Mettur Taluk



were allotted to the petitioner's father, vide partition deed dated 16.09.1950, entered between the brothers. While so, the petitioner's father died in the year 1970. Since the petitioner's right to use the cart track for ingress and egress to the above said lands through 7 feet broad branching from Nangavalli main road and proceeding through S.No.149/2 was denied by the dominant owner, the petitioner and his mother filed a Suit in O.S.No.537 of 1996 against one Marakkal and others, seeking relief of declaration of easement right of cart track and injunction and the said Suit was decreed in favour of the petitioner. While such being the case, some of the defendants in the said suit filed a petition to set aside the exparte decree along with other interlocutory applications and the same were allowed initially and were later dismissed for not complying with the condition imposed and the consequent Civil Miscellaneous Appeals filed by the defendants were also dismissed. Further, the suit in O.S.No.89 of 2007 in respect of the subject property was also decreed in favour of the petitioner and the consequent appeal before the Lower Court and the Second Appeal before this Court were also decreed in favour of the petitioner, confirming the decree dated 14.07.1999 granted in favour of the petitioner. As the proceedings pertaining to the subject property was concluded only in February 2022, immediately thereafter, the petitioner presented the decree and judgement for registration before the respondent on 11.04.2022, however, the respondent refused to register the same, vide Refusal Check Slip RFL/Mecheri/11/2022 dated 11.04.2022 on the ground that the decree has been presented for registration after 8 months, which is contrary to the period stipulated in 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 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.

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 presented beyond the period prescribed under Section 23 of the Registration Act. In such circumstances, the impugned refusal check slip issued by the



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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 respondent is set aside and the matter is remanded to the respondent and the respondent is directed to register the Court decrees dated 14.07.1999 made in O.S.No.537 of 1996 on the file of the District Munsif Court, Mettur without referring the delay. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

skt

To

The Sub Registrar,
Mecheri Sub Registrar Office,
Salem District.

+1cc to the Government Pleader, S.R.No.35362

W.P.No.14435 of 2022
and

W.M.P.No.13651 of 2022

RR(CO)
PM/01/07/2022