

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 21.06.2022
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.15161 of 2022

Daniel Ulriksson

...Petitioner

Vs.

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

2. The Sub Registrar,
Sub Registrar Office,
Coimbatore District.

...Respondents

Prayer:-

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 order made in refusal check slip dated 22.04.2022 in RFL/Pollachi/32/2022 by the 2nd respondent and quash the same and consequently direct the 2nd respondent to register the judgment and decree in O.S.No.63 of 2017 dated 08.07.2019 on the file of the Subordinate Judge of Pollachi, without insisting stamp duty and levying only registration charges.

For Petitioner	: Mr.I.Arokiasamy
For Respondents	: Mr.Yogesh Kannadasan Special Government Pleader

ORDER

The petitioner has filed this petition for quashment of the proceedings of the 2nd respondent dated 22.04.2022 refusing to register the Court decree dated 08.07.2019 made in O.S.No.63 of 2017 on the file of the learned Subordinate Judge, Pollachi and for a consequential direction to the 2nd respondent to register the same.

2. The case of the petitioner is that, petitioner's father is the owner of the property in S.No.78/2, of an extent of 2.80 acres situated at Zamin Uthukuli Village, Pollachi Taluk, Coimbatore district. After the demise of the petitioner's

father, petitioner filed a suit in O.S.No.63 of 2017, on the file of the learned Subordinate Judge of Pollachi for declaration and permanent injunction of the suit schedule property in S.No.78/2, Zamin Uthukuli village, Pollachi Taluk, Coimbatore district and the said suit was decreed on 08.07.2019. Thereby, the petitioner presented the application dated 22.04.2022, before the 2nd respondent for registration of the judgment and decree in O.S.No.63 of 2017 dated 08.07.2019, however, the 2nd respondent refused to register the same, vide Refusal Check Slip RFL/Pollachi/32/2022 dated 22.04.2022, on the ground that the decree has been presented for registration after a lapse of four months, which is contrary to the period stipulated under Section 23 & 25 of the Registration Act, 1908. Challenging 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 judgment and 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.

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 application was rejected under section 23 and 25 of the Registration Act, 1908, as the decree has been presented for registration after a lapse of four months.

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, 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 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 Judgment and decree in O.S.No.63 of 2017, dated 08.07.2019 passed by the learned Subordinate Judge, Pollachi without referring the delay. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//
Sub Assistant Registrar

ep/rap
To

1. The Inspector General of Registration,
100, Santhome High Road,
Foreshore Estate Pattinapakkam,
Chennai - 600 028.
2. The Sub Registrar,
Sub Registrar Office,
Coimbatore District.

+1 cc to Mr.I.Arokiasamy, Advocate Sr.NO. 37336
+1 cc to Government Pleader Sr.NO. 38816

W.P.No.15161 of 2022

GPL(CO)
A.SK(15/07/2022)