



W.P.No.16565 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2022

CORAM

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

W.P.No.16565 of 2022

Ravi

...Petitioner

Vs.

1.The District Registrar,
Salem.

2.The Joint Sub Registrar No.1,
Salem East,
District Registrar Office,
Salem.

...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 impugned order passed by the 2nd respondent in Refusal Number RFL/No.1 Joint Sub Registrar, Salem East/77/2021 dated 25.10.2021 and quash the same and consequently direct the 2nd respondent to register the document executed by the II Additional Subordinate Court, Salem in O.S.No.614/2019 dated 30.09.2020.

For Petitioner : Mr.T.Ganesan

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader



W.P.No.16565 of 2022

WEB COPY

ORDER

The petitioner has filed this petition for quashment of the proceedings of the second respondent in Refusal Number RFL/No.1 Joint Sub Registrar, Salem East/77/2021 dated 25.10.2021 and for a consequential direction to the second respondent to register the document executed by the II Additional Subordinate Court, Salem in O.S.No.614/2019 dated 30.09.2020.

2. Mr.Yogesh Kannadasan, learned Special Government Pleader takes notice for the respondents. With the consent of learned counsel appearing on either side, this Writ petition is taken up for final disposal at the admission stage itself.

3. The case of the petitioner is that, the petitioner has filed a suit in O.S.No.614 of 2019 before the II Additional Subordinate Court, Salem in respect of the property to an extent of 675 sq.ft. Situated at Ammapet Village, Salem District in S.No.367/14. The suit was settled in Lok Adalat on 18.03.2020. Based on the settlement, the learned II Additional Subordinate Judge, Salem passed a decree and Judgment in the above suit. Thereafter, due



W.P.No.16565 of 2022

WEB COPY

to Covid Pandemic situation, the petitioner was unable to take steps to register the partition deed. Thereafter, the petitioner presented the document before the second respondent for registration on 25.10.2021, however, the second respondent refused to register the same, vide Refusal Check Slip No.RFL/ No.1 Joint Sub Registrar, Salem East/77/2021 dated 25.10.2021 on the ground that the time is lapsed, 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 deed through 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,***



W.P.No.16565 of 2022

WEB COPY

Cuddalore) and **2019 (3) MLJ 571 (S.Sarvothaman vs. The Sub-Registrar, Oulgaret)**, 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



W.P.No.16565 of 2022

WEB COPY

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



W.P.No.16565 of 2022

WEB COPY

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 the 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 second respondent is set aside and the matter is remanded to



W.P.No.16565 of 2022

WEB COPY

the second respondent and the second respondent is directed to register the document executed by the learned II Additional Subordinate Judge, Salem in O.S.No.614 of 2019 dated 30.09.2020, without referring the delay. No costs.

01.07.2022

Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

rsi

To

1.The District Registrar,
Salem.

2.The Joint Sub Registrar No.1,
Salem East,
District Registrar Office,
Salem.



WEB COPY



W.P.No.16565 of 2022

M.DHANDAPANI,J.

rsi

W.P.No.16565 of 2022

01.07.2022