



W.P.No.16571 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2022

CORAM

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

W.P.No.16571 of 2022

K.Balamurugan

...Petitioner

Vs.

1.The District Registrar,
Registration Department,
Erode, Erode District.

2.The Sub Registrar,
Nambiyur Sub Registrar Office,
Nambiyur, Erode District.

...Respondents

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 RFL/Nambiyur/2/2022, dated 01.04.2022 passed by the 2nd Respondent, quash the same and consequently, direct the 2nd respondent to register the judgment and decree dated 17.04.2021 made in O.S. No.66 of 2014 passed by the Ld. District Munsif, Gobichettipalayam presented for registration on 01.04.2022 and release the same after due registration.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader



W.P.No.16571 of 2022

WEB COPY

ORDER

The petitioner has filed this petition for quashment of the proceedings of the second respondent in RFL/Nambiyur/2/2022, dated 01.04.2022 and for a consequential direction to the second respondent to register the judgment and decree dated 17.04.2021 made in O.S. No.66 of 2014 passed by the Ld. District Munsif, Gobichettipalayam presented for registration on 01.04.2022 and release the same after due registration

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 along with his mother and two brothers filed a suit in O.S.No.66 of 2014 before the learned District Munsif, Gobichettipalayam for declaration and permanent injunction. The learned trial Judge partly decreed the suit on 17.04.2021. Due to Covid Pandemic situation, the petitioner was unable to get the judgment copy. After



W.P.No.16571 of 2022

WEB COPY

getting a certified copy of the decree, the petitioner had presented the same before the second respondent for registration on 01.04.2022 along with requisite registration charges. However, the second respondent refused to register the same, vide Refusal Check Slip No. RFL/Nambiyur/2/2022, dated 01.04.2022 on the ground that the document cannot be registered beyond the period of eight 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 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.16571 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.16571 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.16571 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.16571 of 2022

WEB COPY

the second respondent and the second respondent is directed to register the decree passed by the learned District Munsif, Gobichettipalayam in O.S.No.66 of 2014 dated 17.04.2021, 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,
Registration Department,
Erode, Erode District.
- 2.The Sub Registrar,
Nambiyur Sub Registrar Office,
Nambiyur, Erode District.



WEB COPY



W.P.No.16571 of 2022

M.DHANDAPANI,J.

rsi

W.P.No.16571 of 2022

01.07.2022