



W.P.No.24926 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16.09.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.24926 of 2022

Rani

.. Petitioner

Versus

The Sub Registrar,
Sub Registrar Office,
Paramathi
Namakkal District.

.. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ, order or direction in the nature of Writ of Certiorarified Mandamus calling for records relating to the impugned order of refusal by the proceedings on the file of the respondent vide Refusal Check Slip in Refusal Number:RFL/Paramathi/68/2022 dated 16.08.2022 and to quash the same and consequently direct the respondent to receive and entertain, register the judgment and final decree in I.A.No.258 of 2018 in O.S.No.346 of 2014 on the file of the Court of Subordinate Judge, Paramathi along with Commissioner's report.

For Petitioner : Mr.R.Prabakar

For Respondent : Mr.R.U.Dinesh Rajkumar
Additional Government Pleader



W.P.No.24926 of 2022

ORDER

The present petition has been filed challenging the impugned order made in Refusal Number:RFL/Paramathi/68/2022 dated 16.08.2022 by the respondent, quash the same and consequently direct the respondent to register the judgment and final decree in I.A.No.258 of 2018 in O.S.No.346 of 2014 on the file of the Court of Subordinate Judge, Paramathi along with Commissioner's report.

2. The case of the petitioner is that the petitioner is the owner of the vacant land situated at Vadakaraiyathur Melmugam Village, Paramathi, Velur Taluk, Namakkal measuring 1.501/2 Punja Acres. The petitioner filed a partition suit in O.S.No.346 of 2014 on the file of Subordinate Court, Paramathi and a preliminary decree came to be passed in favour of the petitioner on 24.10.2017 and further he filed I.A.No.258 of 2018 seeking to appoint a commissioner to divide the property in metes and bounds and the said application was decreed on 06.02.2019, pursuant to the same, he was delivered the physical possession of the property and the execution petition was terminated. Further, the decree attained finality as there was no appeal filed by the defendants. Thereby, the petitioner presented the application before the respondent for registration on 16.08.2022, however, the respondent refused to register the same, vide the impugned order on the



W.P.No.24926 of 2022

ground that the decree has not been presented within the stipulated time as contemplated under Section 23(2) of the Registration Act, 1908. Hence, 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 deed through Court 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:



W.P.No.24926 of 2022

WEB COPY

“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



W.P.No.24926 of 2022

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 Additional Government Pleader appearing for the respondent submitted that the said application was rejected under section 23(2) of the Registration Act, 1908.

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



W.P.No.24926 of 2022

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 Lingeswaran'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 respondent is set aside and the matter is remanded to the respondent and the respondent is directed to register the judgment and final decree in I.A.No.258 of 2018 in O.S.No.346 of 2014, dated 06.02.2019 passed by Subordinate Court, Paramathi along without referring the delay. No costs.

16.09.2022

dhk
Index:Yes/No
Internet:Yes
Speaking/Non-Speaking order

To

The Sub Registrar,
Paramathi
Namakkal District.



WEB COPY



W.P.No.24926 of 2022

M.DHANDAPANI, J.

dhk

W.P.No.24926 of 2022

16.09.2022
(1/2)