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W.P.No.23996 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2022

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

W.P.No.23996 of 2022
and
W.M.P.No.22973 of 2022

Seniyammal

...Petitioner

Vs.

The Sub Registrar,
Perundurai Sub Registrar Office,
Erode District.

...Respondent

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the entire 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/Perundurai/94/2022 dated 10.08.2022 and to quash the same and consequently direct the respondent to receive and entertain register the Judgment and Final Decree in O.S.No.136 of 1997 on the file of the Court of the I Additional Subordinate Judge, Erode along with Commissioner's Report and pass orders.

For Petitioner : Mr.R. Prabakar

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader



W.P.No.23996 of 2022

WEB COPY

ORDER

The petitioner has filed this petition to issue a Writ of Certiorarified Mandamus calling for the entire 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/Perundurai/94/2022 dated 10.08.2022 and to quash the same and consequently direct the respondent to receive and entertain register the Judgment and Final Decree in O.S.No.136 of 1997 on the file of the Court of the I Additional Subordinate Judge, Erode along with Commissioner's Report

2. The case of the petitioner is that the petitioner is the owner of the property situated in R.SF.No.288/1 to 10, 301/1 to 8, 302/1 to 25, 308/1 to 5 and 306/1 to 23 at Perundurai Taluk, Erode District. Thereafter, the petitioner filed a Partition Suit in O.S.No.136 of 1997 on the file of the I Additional Subordinate Court, Erode and the said suit was decreed on 21.11.2006. Thereby, the petitioner presented the application before the respondent for registration on 10.08.2022, however, the respondent refused to register the same, vide Refusal Check Slip No. RFL/Perundurai/94/2022

2/8



W.P.No.23996 of 2022

dated 10.08.2022 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.

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:

“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."



W.P.No.23996 of 2022

WEB COPY

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.

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 *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 decree in O.S.No.136 of 1997, dated 21.11.2006 passed by the learned I Additional



W.P.No.23996 of 2022

Subordinate Judge, Erode without referring the delay. No costs.

Consequently the connected miscellaneous petition is closed.

07.09.2022

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

The Sub Registrar,
Perundurai Sub Registrar Office,
Erode District



WEB COPY



W.P.No.23996 of 2022

M.DHANDAPANI,J.

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W.P.No.23996 of 2022

07.09.2022