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W.P.No.25304 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.09.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.25304 of 2022

S.Vijaya

.. Petitioner

Versus

1.The Joint-Sub Registrar,
No.I, Joint Sub Registrar Office
Erode

2.Lakshmanan

.. Respondents

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 call for the records of the 1st respondent in relates to Refusal Number in RFL/No.I Joint Sub Registrar Erode/81/2021 dated 18.11.2021 and quash the same in the light of the judgment in (2019) 3 MLJ 517 direct the 1st respondent to register the decreetal order in E.A.No.29 of 2018 in EPR.No.28 of 2011 in O.S.No.269/2010 dated 14.08.2018.

For Petitioner : Mr.J.Franklin

For Respondent : Mr.E.Sundaram
Government Advocate

ORDER

The present petition has been filed challenging the impugned order made in Refusal Check Slip RFL/No.I Joint Sub Registrar Erode/81/2021



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dated 18.11.2021 passed by the first respondent and direct to register the decree in E.A.No.29 of 2018 in EPR.No.28 of 2011 in O.S.No.269/2010 dated 14.08.2018 on the file of the Principal District Judge, Erode.

2. The case of the petitioner is that the second respondent filed a suit in O.S.No.269/2010 against the petitioner and her husband for recovery of money before the Principal District Judge, Erode. In the meantime, the petitioner and the second respondent had entered into compromise and hence, the petitioner filed a petition under Order 21 Rule 89 and Rule 106 and Section 47 and 151 of CPC to set aside the sale deed and to cancel the Sale Certificate dated 26.03.2016 and the same was allowed on 14.08.2018. Thereby, the petitioner in order to nullify the sale deed presented the decretal order along with other documents for registration on 18.11.2021 and the respondent refused to register the same, vide the impugned order on the ground that the decree has not been presented within the stipulated time as contemplated under 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



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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



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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



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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 Government Advocate appearing for the first respondent 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



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passed by the respondent is set aside and the matter is remanded to the respondent and the respondent is directed to register the decreetal order in E.A.No.29 of 2018 in EPR.No.28 of 2011 in O.S.No.269/2010 dated 14.08.2018, passed by the Principal District Judge, Erode without referring the delay. No costs.

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

To

The Joint-Sub Registrar,
No.I, Joint Sub Registrar Office
Erode



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M.DHANDAPANI, J.

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