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W.P.No.32139 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2022

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

W.P.No.32139 of 2022

N.Balaraman

...Petitioner

Vs.

1. The Inspector General of Registration,
Registration Department,
Santhome, Chennai.

2. The District Registrar,
Chennai-South,
Chennai.

3. The Sub Registrar,
Registration Department,
Triplicane, Chennai.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the 3rd respondent in refusal check slip No.RFL/Triplicane/19/2022 dated 01.09.2022 and quash the same and consequently direct the 3rd respondent to accept and register the Decree and Judgment in C.S.No.108 of 2019 dated 08.08.2019 within the time frame to be fixed by this Hon'ble Court.

For Petitioner : Mr.M.Kempraj



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For Respondents : Mr.G.KrishnaRaja, AGP

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ORDER

The petitioner has filed this Writ petition for quashment of the proceedings of the 3rd respondent dated 01.09.2022 refusing to register the Court decree and Judgment dated 08.08.2019 made in C.S.No.108 of 2019 on the file of the Original Side, High Court, Madras and for a consequential direction to the 3rd respondent to register the same.

2. The case of the petitioner is that, he filed a suit in C.S.No.108 of 2019 against his brothers and sisters and the 3rd respondent herein for partition of his father's properties as well as his mother's share and to allot 1/4th share. Subsequently, the parties in the said suit entered into a Memorandum of Compromise on 01.08.2019, as the matter was duly compromised in between the respective parties through mediation and on the basis of the mediation report and Memorandum of Compromise, the judgment and decree were came to be passed on 08.08.2019. Pursuant to the same, the petitioner with an intention to settle his respective share in the suit property in favour of his sons and daughter, executed a settlement deed and when the



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same was presented for registration, the 3rd respondent has refused to register the same, vide present impugned refusal check slip bearing No.RFL/Triplicane/19/2022 dated 01.09.2022, on the ground that the decree has been presented for registration beyond the time limit prescribed under Section 23 of the Registration Act, 1908. Challenging the said refusal check slip, the present Writ Petition is filed.

3. Learned counsel for the petitioner submitted that no time limit is prescribed under the Registration Act, 1908 with regard to registration of the Court decree. Therefore, citing the delay in presenting the document as a ground and refusing to register the same is not sustainable. Hence, he prayed for allowing this Writ petition.

4. He further relied upon the 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, in which, 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



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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."

5. Learned Additional Government Pleader appearing for the respondents submitted that the document presented by the petitioner was rejected on the ground that the Decree and judgment came to be passed on 08.08.2019 and the petitioner has presented the same for registration after a lapse of about 3 years, which is beyond the time limit prescribed under Section 23 of the Registration Act, 1908. Hence, he prayed for dismissal of this Writ petition.



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6. Heard learned counsel on either side and perused the materials

available on record.

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 catena of decisions held that the Registrar cannot refuse the 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 stated supra* 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 order impugned in this petition is set aside and the matter is remanded to the 3rd respondent and the 3rd respondent is directed to register the judgment and decree made in C.S.No.108 of 2019 dated 08.08.2019 passed by this Court, without referring to delay. No costs.

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Speaking Order : Yes/ No
Index : Yes/ No

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