



W.P.No.25862 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2022

CORAM :
THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Writ Petition No.25862 of 2022

Duraisamy

... Petitioner

Vs.

The Sub-Registrar,
Registration Department,
Shoolagiri,
Krishnagiri District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned “Refusal Check Slip” dated 15.09.2022 vide Refusal Number in RFL/Shoolgiri/75/2022 on the file of the Respondent herein, quash the same and consequently direct the respondent herein to register the judgment and decree dated 09.08.1994 passed in O.S.No.105/1993 on the file of the District Munsiff Court, Hosur.

For Petitioner : Mr.K.Govi Ganesan

For Respondent : Mr.C.Kathiravan,
Special Government Pleader



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ORDER

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The petitioner has filed this petition for quashment of the proceedings of the respondent dated 15.09.2022 refusing to register the judgment and decree dated 09.08.1994 made in O.S.No.105/1993 on the file of the file of the District Munsiff Court, Hosur and for a consequential direction to the respondent to register the same.

2. The case of the petitioner is that, the petitioner has filed a suit in O.S.No.105 of 1993 on the file of the District Munsiff Court, Hosur for declaration of title for consequential injunction against one Muniappa and three others and the said suit was decreed on 09.08.1994. Thereafter, the petitioner presented the application before the respondent for registration of the said decree on 15.09.2022, however, the respondent refused to register the same, vide Refusal Check Slip No.RFL/Shoolagiri/75/2022 dated 15.09.2022 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 2304.2021, 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



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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."



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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 Special Government Pleader appearing for the 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



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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.105 of 1993 dated 09.08.1994 passed by the District Munsif Court, Hosur without referring the delay. No costs.

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Index : Yes/No

Speaking Order : Yes/No

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