



W.P. No. 27175 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No. 27175 of 2022

Krishnamoorthy

... Petitioner

Versus

1. The Government of Tamil Nadu
Represented through the Secretary to Government
Commercial Taxes and Registration Department
Fort St. George, Chennai.
2. The Inspector General of Registration
No. 100, Santhome High Road
Foreshore Estate
Pattinapakkam
Chennai - 600 028.
3. The Sub Registrar
Kundrathur Sub Registrar Office
Kundrathur
Chennai - 600 069.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for
issuance of a Writ of Mandamus, directing the 3rd respondent to register
the certified copy of the Lok Adalat Award, dated 17.03.2011 passed by



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the Lok Adalat-I organized by the Hon'ble High Court Legal Services Committee, Chennai in A.S.Nos.587 and 315 of 2010 on the file of this Court on payment of registration charges alone without insisting for payment of any stamp duty and without insisting on the period of limitation under Section 23 of the Registration Act, 1908, on the basis of the similar order passed by the Madurai Bench of Madras High Court order dated 25.06.2021 made in W.P.(MD).Nos.8091, 8093 and 9446 of 2020.

For Petitioner : Mr.R.Udhayakumar

For Respondents : Mr.C.Kathiravan
Special Government Pleader

ORDER

The writ petition is filed seeking for a direction to the third respondent/Sub Registrar, to register the certified copy of the Lok Adalat Award, dated 17.03.2011 passed by the Lok Adalat-I organized by the Hon'ble High Court Legal Services Committee, Chennai, in A.S.Nos.587 and 315 of 2010 on the file of this Court on payment of registration charges alone without insisting for payment of any stamp duty and without insisting on the period of limitation under Section 23 of the Registration Act, 1908,



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on the basis of the similar order passed by the Madurai Bench of Madras High Court order dated 25.06.2021 made in W.P.(MD).Nos.8091, 8093 and 9446 of 2020.

2. The case of the petitioner is that the petitioner has filed a suit in O.S.No.284 of 2007 for specific performance before the Additional District Court (Fast Track Court No.II), Poonamallee. After perusing the records, the trial court delivered the judgment and decree, dated 18.01.2010 in favour of the petitioner herein, in respect of property comprised in S.No.360/1 measuring the extent of one acre 57 cents at No.97, Porur Village, Ambattur Taluk, Thiruvallur District. Subsequently, aggrieved parties have been preferred in A.S.Nos.587 & 315 of 2010 before this Court against the petitioner, third respondent and others. Thereafter, this Court referred the matter before the Lok Adalat and the parties had agreed and accepted and signed the Memorandum of Understanding Deed, dated 17.03.2011. As per the Lok Adalat Award, the petitioner has been in possession and enjoyment of the property of Schedule-II to the extent of 11 grounds and Schedule-IV to the extent of 3.5 grounds in and out of 28.5 grounds. On August, 2022, the petitioner has approached the Revenue



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Department seeking patta as per the Lok Adalat Award, but the Revenue Department demanded the Registration Deed of Lok Adalat Award. Therefore, the petitioner made a representation, dated 05.08.2022 before the third respondent/Sub Registrar. After receiving the same, the third respondent has not passed any order. Therefore, the petitioner has come forward with the present writ petition.

3.The learned counsel appearing for the petitioner submitted that for registering a Lok Adalat Award, the original Registration Deed of Lok Adalat Award is not necessary and the certified copy of the Lok Adalat Award, dated 17.03.2011 in A.S.Nos.587 & 315 of 2010 passed by the Lok Adalat-I, High Court Legal Service Committee, Madras, is sufficient. In the present case, though the petitioner presented the certified copy of the Lok Adalat Award and Memorandum of Understanding Deed dated 17.03.2011 before the third respondent, after receiving the same, there is no respond from the third respondent. The learned counsel further submitted that the issue arises in the present case has already been settled by the Madurai Bench of this Court and relied upon the decision of the Madurai Bench of this Court made in W.P.(MD) No.19745 of 2020 dated



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11.02.2021.

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4.Mr.C.Kathiravan, learned Special Government Pleader appearing for the respondents submitted that since the petitioner did not produce the original Memorandum of Understanding Deed of Lok Adalat Award while presenting for registration, the third respondent has refused the same.

5.Heard the counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents and perused the materials placed on record.

6. The issue raised in this writ petition is no longer *res integra*, as the said issue had already been deliberated by the Division Bench of this Court in ***Indira Devi – Vs - Inspector General of Registration, Chennai & Ors.*** (2005 (1) CTC 733) this Court has held as under :-

"5. There is no dispute that as per Rule 9(5)(a) of the said Rules, an appeal under Section (10) of Section 47-A shall be preferred within two months from the date of final order passed under Sub-section (5) or Sub-section (6) of Section 47-A. Though the relevant rule says that an appeal has to be preferred within two



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months from the date of final order passed, in the absence of specific exclusion regarding application of Section 5 of the Limitation Act, the learned counsel appearing for the petitioner drawing our attention to the decision of a Division Bench of this Court (Principal Seat) dated 31.3.2004 made in C.M.A. (NPD) Nos. 896 and 897 of 2004 would submit that the appeal filed by the appellant before the first respondent is well within time. In the said decision, the Division Bench had occasion to consider the similar claim under the very same provision i.e. Rule 9(5)(a) of the Rules referred to above. After referring to a judgment of the Supreme Court dealt within a similar circumstance, the Division Bench has concluded thus: "We, therefore, hold that the date of the order under Section 47-A for the purpose of deciding the limitation for filing appeals should be construed to mean the date of the service of the order. Hence, the date of order under Rule 9 of the said Rules shall be construed to mean the date of service of the order for the purpose, of determining the time limit to prefer the appeals." 6. Inasmuch as there is a specific provision enabling the aggrieved person to file an appeal to the appellate authority, the first respondent herein viz., the Inspector General of Registration, as rightly observed by the



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Division Bench, unless the copy of the order is furnished/served on the aggrieved person, it would not be possible for him to file the appeal. We are in respectful agreement with the view expressed by the Division Bench. 7. In addition to this, as rightly pointed out by the learned counsel for the petitioner, inasmuch as there is no specific exclusion of Section 5 of the Limitation Act in the Rules, we are of the view that taking note of the fact that copy of the order passed by the second respondent dated 28.11.2002 has been served/received by the appellant only on 17.12.2002 and the appeal filed by the appellant on 10.2.2003 before the first respondent is well within time. The first respondent has committed error in dismissing the appeal stating that the same is barred by limitation. The impugned order of the first respondent dated 10.3.2003 is set aside. The first respondent is directed to hear the appeal on merits within a period of three months from the date of receipt of copy of this order after affording opportunity to all the parties concerned."

7. The aforesaid decision in *Indira Devi (supra)* was taken note of by the another Division Bench in ***M.Kaliammal Vs.The Special Deputy Collector (Stamps), Salem Namakkal - Dharmapuri and Krishnagiri @***



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Salem & Anr. (2005 (3) CTC 529) wherein it was held that even in the absence of any provision to condone the delay, the appellate authority can very well entertain the petition and condone the delay. The relevant portions of the order is extracted hereunder:-

"4. A Division Bench of this Court in the judgment Indira Devi v. Inspector General of Registration, dealing with a similar situation had held that since the provisions of the Limitation Act is not excluded in matters relating to filing of an appeal, Section 5 of the Limitation Act gets attracted. Having that law laid down by this Court, we perused the entire papers placed before us. Having regard to the nature of the order passed by the first respondent, which is challenged before the second respondent, viz., demanding difference in payment of stamp duty payable on the ground of under valuation we are of the firm opinion that ends of justice definitely requires the delay in filing the appeal, whether it is 50 days or six months, to be condone. We find from the materials placed on record that the appellant had satisfactorily explained the delay. Consequently, the impugned order is set aside and the appeal is allowed. Now costs. The second respondent is directed to take up the appeal on



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file and dispose it of in accordance with law. CMP No. 7257 of 2005 is closed."

8. In view of the settled law, the third respondent/Sub Registrar cannot refuse to register any order or decree only on the ground that the same has been presented beyond the period of limitation provided under Section 23 of the Act. Hence, the Sub Registrar shall entertain the certified copy of the decree/Award that is presented by the petitioner and shall register the same.

9. Insofar as the next issue regarding the registration fee that has to be levied, the law is no longer *res-integra* and this Court in the case of *K.Krishnan Vs. Inspector General of Registration* and another reported in 2019 (4) TLNJ 92 (Civil) has categorically held that the registration fees should be levied only on the total value of the suit and not on the value of the property. Therefore, the respondent cannot insist for the payment of the registration fees based on the value of the property.

10. In view of the above discussion, the writ petition is disposed of with a direction to the respondents to entertain the certified copy of the



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decree/Lok Adalat Award dated 17.03.2011 that is presented for registration by the petitioner if it is otherwise in order, and after collection of necessary stamp duty in terms of *Krishnan's case* cited supra and pass appropriate orders. No costs.

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Index : Yes / No
Speaking order : Yes / No
msm

To

1. The Secretary to Government
The Government of Tamil Nadu
Commercial Taxes and Registration Department
Fort St. George, Chennai.
2. The Inspector General of Registration
No. 100, Santhome High Road
Foreshore Estate, Pattinapakkam, Chennai - 600 028.
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M. DHANDAPANI, J.

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