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W.P.No.27669 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2022

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

W.P.No.27669 of 2022

Muniyamma

...Petitioner

Vs.

1. The Inspector General of Registration,
Santhome, Chennai-600 028.
2. The District Registrar (Registration),
District Registrar Office,
Krishnagiri.
3. The Sub Registrar,
Sub-Registrar Office,
Veppanapalli.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the concerned respondents to register the decree and Judgment dated 09.07.2019 in I.A.No.419/2018 in O.S.No.142/2017 passed by the principal Subordinate Court, Krishnagiri and pass orders.

For Petitioner : Mr. G. Babu

For Respondents : Mr.G. Krishna Raja
Additional Government Pleader



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ORDER

The petitioner has filed this petition seeking a direction to the respondents to register the decree and Judgment dated 09.07.2019 in I.A.No.419/2018 in O.S.No.142/2017 passed by the principal Subordinate Court, Krishnagiri and pass orders.

2. The case of the petitioner is that, there was a dispute in the property in Survey No. 23/3A (an extent of 1.63 acre), 23/3B (an extent of 1.58 acre) and 26/1 (an extent of 2.51 acre) situated at the Pathimadugu Village, Krishnagiri Taluk and District between the petitioner and the legal heirs of the petitioner's brother. Due to which the petitioner filed a Original suit before the Principal Subordinate Judge of Krishnagiri in O.S.No.142 of 2017. Subsequently the petitioner filed a petition for passing of Final Decree in I.A.No.419 of 2018 and final decree came to be passed on 09.07.2019. Thereafter when the petitioner approached the 3rd respondent for registering the final decree, the same was refused on the ground that the decree has not been presented for registration within the stipulated time. Hence, the present Writ Petition is filed.



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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. He further relied on the decision rendered in the case of W.P.(M.D.) No.13896 of 2019 wherein it was held that there is no limitation for registering the decree and Judgment.

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



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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



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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



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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 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 Ligeswaran's case and the ratio laid therein stands squarely attracted. Therefore, the rejection order is wholly in contravention of the order passed



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in *Lingeswaran's case (supra)*.

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7. Accordingly, the 3rd respondent respondent is directed to entertain the decree and Judgment passed in I.A.No.419/2018 in O.S.No.142/2017 dated 09.07.2019 passed by Principal Subordinate Judge, Krishnagiri without referring the delay. No costs.

17.10.2022

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

1. The Inspector General of Registration,
Santhome, Chennai-600 028.
2. The District Registrar (Registration),
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Krishnagiri.
3. The Sub Registrar,
Sub-Registrar Office,
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M.DHANDAPANI,J.

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