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W.P.No.27732 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18.10.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.27732 of 2022

M.Chezhieyan

.. Petitioner

Versus

1.The District Registrar
Office of the Registration
Chennai North
Chennai

2.The Sub-Registrar
Office of the Sub Registration
Anna Nagar
Chennai

.. 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 Mandamus, directing the respondents to register the Probate Order dated 07.11.2001 in O.P.No.68/2001 on the file of the Hon'ble High Court of Madras by considering the petitioner's representation dated 09.09.2022.

For Petitioner : Mr.R.Rajarajan
For Respondents : Mr.G.Krishnaraja
Additional Government Pleader

ORDER

The present petition has been filed seeking to direct the the respondents to register the Probate Order dated 07.11.2001 in O.P.No.68/2001 on the file



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of the this Court by considering the petitioner's representation dated 09.09.2022.

2. The case of the petitioner is that the petitioner's mother namely Mrs. Sathiyavanimuthu purchased the propertikes situated at Door No.A114/82, Third Avenue, Anna Nagar, Chennai – 102 from the Tamil Nadu Housing Board. During the lifetime of her mother, her first son Arachelvan filed a suit for partition in C.S.No.1308 of 1988 before this Court. On 25.10.1988, a Compromise Deecree was passed in C.S.No.1308 of 1988 allotting the subject property in favour of the petitioner. Pursuant to which, the petitioner executed a will confirming the family arrangement and bequeathing the subject property upon the petitioner. The petitioner mother passed away on 11.11.1999. Further, petitioner applied for probate of administration in O.P.No.68/2001 before this Court and the same was granted on 11.01.2002. Thereby, the petitioner presented the judgment and decree in C.S.No.1309 of 1998 dated 25.10.1988 and the probate order dated 11.01.2002 in O.P.No.68/2001 before the second respondent for registration, however, the second respondent refused to register the same 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 petitioner made a representation on



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09.09.2022, before the respondents seeking to register the said documents, which is pending without consideration till date. Hence, the present Writ Petition is filed.

3. The Learned counsel for the petitioner submits that no time limit is prescribed in the Registration Act with regard to registration of the deeds through Court decree. Therefore, citing delay in presenting the documents 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



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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 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



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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. 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 Court decrees 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 disposed of and the respondent is directed to entertain the probate order dated 11.01.2002 in O.P.No.68/2001 passed by this Court without referring the delay within a period of twelve weeks from the date of receipt of a copy of this Order, and the petitioner is directed to pay requisite Stamp Duty and Registration Charges . No costs.

18.10.2022

dhk
Index:Yes/No
Internet:Yes

To,
1.The District Registrar
Office of the Registration
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Chennai

2.The Sub-Registrar
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M.DHANDAPANI, J.

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