



W.P.No.27984 of 20__

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.10.2022

Coram

The Honourable Mr.Justice M.DHANDAPANI

W.P.No.27984 of 2022

R.Kanagavel

...Petitioner

Versus

The Sub-Registrar,
Thondamuthur Sub-Registrar Office,
Thondamuthur,
Coimbatore District.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records relating to the Refusal Check Slip bearing refusal number:RFL/Thondamuthur/29/2022 dated 19.09.2022 passed by the respondent quash the same as illegal, unlawful, malafide, without jurisdiction and against principles of natural justice and consequently directing the respondent to register the certified copy of the decree, dated 28.09.2010, passed in the suit in O.S.No.2254 of 2005 on the file of the III Additional District Munsif Court, Coimbatore 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.



W.P.No.27984 of 20__

WEB COPY

For Petitioner : Ms.R.Sarojini
For Respondent : Mr.G.Krishnaraja,
Additional Government Pleader

ORDER

The relief sought in this writ petition is to call for the records relating to the Refusal Check Slip bearing Refusal number:RFL/Thondamuthur/29/2022 dated 19.09.2022 passed by the respondent and quash the same and consequently, direct the respondent to register the certified copy of the decree dated 28.09.2010 passed in the suit in O.S.No.2254 of 2005 on the file of the III Additional District Munsif Court, Coimbatore 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 (hereinafter referred to as 'Act').

2. The case of the petitioner is that he and 3 others had filed a suit in O.S.No.2254 of 2005 before the III Additional District Munsif Court, Coimbatore, for declaration and permanent injunction and the same was



WEB COPY

decreed in favour of the petitioner and 3 others on 28.09.2010. But as against the said judgement and decree passed in O.S.No.2254 of 2005, the defendants therein have not yet preferred any appeal. While so, the petitioner made a request to the respondent to register the certified copy of the decree passed by the learned III Additional District Munsif, Coimbatore in O.S.No.2254 of 2005 dated 28.09.2010, but, his request was refused by the respondent vide Refusal Check Slip bearing Refusal No.RFL/Thondamuthur/29/2022 dated 19.09.2022 on the ground that the decree has not been submitted for registration within the time of limitation stipulated under Section 23 of the Act and necessary fee/stamp duty has also not been paid. Aggrieved over the same, the petitioner has filed the present writ petition before this Court for the relief stated *supra*.

3. The learned counsel for the petitioner contended that no time limit is prescribed in the Registration Act with regard to registration of Court decree. Therefore, citing delay in presenting the Court decree as reason for not registering the same is not sustainable.



4. The learned counsel for the petitioner placed reliance on the decision of this Court in the case of ***S.Lingeswaran vs. The Sub Registrar in W.P.No.9577 of 2021 dated 23.04.2021***, wherein, following the earlier judgments of the Division Bench of this Court 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)***, it was held that a Court decree is not a compulsorily registrable document and the option lies with the party and in such circumstances, the law laid down by this Court clearly states that the limitation prescribed under the Act would not stand attracted. The relevant portion of the order passed by this Court in ***Lingeswaran's case*** is usefully 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



WEB COPY

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."

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



WEB COPY

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 Additional Government Pleader appearing for the respondent submitted that the petitioner's request was rejected by the respondent under Section 23 and Section 25 of the Act.

6. It is not in dispute that the petitioner is in possession of a Court decree. The issue involved in the present case is that when the petitioner presented the Court decree which 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 ***Lingeswaran's case*** and the ratio laid therein stands squarely applicable to the case on hand. Therefore, the rejection order passed by the respondent is wholly in contravention of the order passed in ***Lingeswaran's case (supra)***.



WEB COPY



W.P.No.27984 of 20__

7. Considering the facts and circumstances of the case and also, following the decision in the case of ***S.Lingeswaran vs. The Sub Registrar in W.P.No.9577 of 2021 dated 23.04.2021*** cited *supra*, this writ petition is allowed and the impugned order passed by the respondent is set aside. The matter is remanded back to the respondent for fresh consideration. The respondent is directed to entertain the decree in O.S.No.2254 of 2005 dated 28.09.2010 passed by the III Additional District Munsif Court, Coimbatore, if it is otherwise in order, without referring the delay. No costs.

19.10.2022

mrr

Index : Yes/No

Speaking Order (or) Non-Speaking Order

Copy to

The Sub-Registrar,
Thondamuthur Sub-Registrar Office,
Thondamuthur,
Coimbatore District.



WEB COPY



W.P.No.27984 of 20__

M.DHANDAPANI, J.

mrr

W.P.No.27984 of 2022

19.10.2022