



W.P.No.28812 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2022

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.28812 of 2022

G.Alagesan

. . . Petitioner

Vs.

The Sub Registrar,
O/o. Sub Registrar,
Magudanchavadi,
Salem District.

. . . Respondent

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order made in Refusal Check Slip in RFL/Magudanchavadi/14/2022 dated 08.10.2022 passed by the respondent, quash the same and consequently, direct the respondent to register the Final decree dated 23.11.2005 made in I.A.No.685 of 2004 in O.S.No.123 of 2004 passed by the Ld.District Munsif Court, Sankari and release the document.



W.P.No.28812 of 2022

For Petitioner : M/s.N.Manoharan

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

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ORDER

The present petition has been filed seeking the relief of quashment of the impugned order dated 08.10.2022 which was passed by the respondent and to direct the respondent to register the Final decree dated 23.11.2005 made in I.A.No.685 of 2004 in O.S.No.123 of 2004 on the file of the Ld.District Munsif Court, Sankari and release the document.

2. Mr.G.Krishna Raja, learned Additional Government Pleader takes notice for the respondent.

3. The case of the petitioner is that the petitioner presented a final decree dated 23.11.2005 made in I.A.No.685 of 2004 in O.S.No.123 of 2004 which was passed by the learned District Munsif Court, Sankari for registration before the respondent, however, the respondent had refused to register the said document vide the Refusal Check Sip dated 08.10.2022 on the ground that the decree has not been presented for registration within the



W.P.No.28812 of 2022

prescribed period of limitation. Challenging the same, the present writ petition has been filed.

4. Learned counsel for the petitioner submits that the time limit prescribed in the Registration Act is only for compulsorily registrable documents, however, the Court decree is not a compulsorily registrable document. Therefore, citing delay in presenting the document as reason for not registering the same is not sustainable.

5. 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:

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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 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."



W.P.No.28812 of 2022

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.*

6. The learned Additional Government Pleader appearing for the respondents submitted that the application seeking registration of decree was rejected under Sections 23 and 25 of the Registration Act, 1908.

7. Considering the facts and circumstances, admittedly, the petitioner obtained a decree dated 23.11.2005 in O.S.No.123 of 2004. When the said decree was presented before the respondent for registering the same, it was rejected by citing Section 23 of the Registration Act. The rejection order is wholly in contravention of the order passed in *Lingeswaran's case (supra)*, and ratio laid down therein is squarely applicable to the present case.



W.P.No.28812 of 2022

WEB COPY

8. 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 entertain the decree in O.S.No.123 of 2004 & I.A.No.685 of 2004, dated 23.11.2005 passed by the learned District Munsif Court, Sankari forthwith, if there is no other legal impediment to register the same. No costs.

01.11.2022

NHS

Index : Yes / No

Internet : Yes / No

To

The Sub Registrar,
O/o. Sub Registrar,
Magudanchavadi,
Salem District.

6/8



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W.P.No.28812 of 2022



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W.P.No.28812 of 2022

M.DHANDAPANI, J.

NHS

W.P.No.28812 of 2022

01.11.2022