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W.P.No. of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2022

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

W.P.No.29197 of 2022

D. Ravi

...Petitioner

Vs.

1.The Sub-Registrar, Arcot,
Sub-Registrar's Office,
Kalavai Road, Arcot – 632 503

2. The Inspector General,
Tamil Nadu Registration Department,
No.100, Santhome High Road,
Chennai – 600 028

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records in Refusal order Number RFL/ Arcot/4/2022 dated 10.02.2022 passed by the first respondent herein to register the decree and quash the same and consequently direct the first respondent to register the Judgment and Decree passed by the Hon'ble High Court of Chennai in S.A.No.2112 of 2003 and pass orders.

For Petitioner : Mr.S. Namasivayam

For Respondents : Mr.E. Vijay Anand
Additional Government Pleader



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ORDER

The petitioner has filed this petition for issuance of a Writ of Certiorarified Mandamus calling for the records in Refusal order Number RFL/ Arcot/4/2022 dated 10.02.2022 passed by the first respondent herein to register the decree and quash the same and consequently direct the first respondent to register the Judgment and Decree passed by the Hon'ble High Court of Chennai in S.A.No.2112 of 2003.

2. The case of the petitioner is that the petitioner inherited the subject property from his ancestors. Subsequently there was a dispute in the subject property for which one Amaravathi filed O.S.No.71 of 1997 seeking for declaration and permanent injunction before the District Munsif Cum Magistrate Court, Arcot and the same was dismissed. Aggrieved over the same the said Amaravathi filed a appeal suit in A.S.No.34 of 1999 before the first Appellate Court and the same was also dismissed but permanent injunction was granted and was observed that appellant Amaravathi should not be disturbed. Hence the petitioner filed a second appeal in S.A.No. 2112 of 2003 before this Court and the same was allowed. Thereby, the petitioner



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presented the judgment and Decree before the first respondent for registration on 10.02.2022, however, the same was refused to register the same, vide Refusal Check Slip RFL/ Arcot/4/2022 dated 10.02.2022 on the ground that the decree and Judgment has been presented for registration after 4 months, which is contrary to the period stipulated in Section 23 & 25 of the Registration Act, 1908. Hence, the present Writ Petition is filed.

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.

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,***



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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 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."

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



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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 and Judgment 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 *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 **allowed** and the impugned order passed by the first respondent is set aside and the matter is remanded to the first respondent and the first respondent is directed to entertain the Judgment



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and decree passed by this Court in S.A.No.2112 of 2003 without referring the delay. No costs.

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

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2. The Inspector General,
Tamil Nadu Registration Department,
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M.DHANDAPANI,J.

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