



W.P.No.30758 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2022

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

W.P.No.30758 of 2022

R.Kumaravel

... Petitioner

Vs.

1.The Inspector General of Registration,
Office of the Inspector General of Registration,
Santhome, Chennai – 600 004.

2.The Joint-II Sub-Registrar,
Cuddalore.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent relating to the impugned order passed by the 2nd respondent in refusal Check Slip reference No.RFL/2 Joint Sub Registrar, Cuddalore/34/2022, dated 18.10.2022, refusing to register the Court Decree dated 13.08.2013 made in O.S.No.216 of 2010 before the Hon'ble II Additional Sub-Ordinate Judge, Cuddalore, and to quash the same and consequently direct the 2nd respondent to register the said decree and to return the documents on its registration.

For Petitioner : Mr.A.Rajendra Kumar



W.P.No.30758 of 2022

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

WEB COPY

ORDER

The petitioner has filed this petition for quashment of the proceedings of the 2nd respondent dated 18.10.2022 refusing to register the Court decree dated 13.08.2013 made in O.S.No.216 of 2010 on the file of the IInd Additional Sub-Ordinate Judge, Cuddalore and for a consequential direction to the 2nd respondent to register the same.

2.The case of the petitioner is that, the petitioner filed a suit against his brothers for declaration of the title to the suit property and also for a consequential relief of permanent injunction before the learned Sub-Ordinate Judge, Cuddalore, whereas, the defendants therein were set exparte vide order dated 13.08.2013. Thereby, the petitioner presented the application before the 2nd respondent for registration, however, the 2nd respondent refused to register the same, vide Refusal Check Slip eference No.RFL/2 Joint Sub Registrar, Cuddalore/34/2022, dated 18.10.2022 on the ground that the decree has been presented for registration after four months from the date of obtaining a copy of the decree from the Court, which is contrary to the period stipulated in Section 23 & 25 of the Registration Act,



W.P.No.30758 of 2022

1908. Hence, the present Writ Petition is filed.

WEB COPY

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, 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:



WEB COPY

“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 respondent is directed to register the decree, if it is otherwise in order. No costs."



W.P.No.30758 of 2022

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 in *Lingeswaran's* case (*supra*).

7. Accordingly, this writ petition is allowed and the impugned order passed by the 2nd respondent is set aside and the matter is remanded to the 2nd respondent and the 2nd respondent is directed to entertain the decree in O.S.No.216 of 2010, dated 13.08.2013 passed by the learned IInd



W.P.No.30758 of 2022

Additional Sub-Ordinate Judge, Cuddalore without referring the delay. No costs.

18.11.2022

gba

Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

Note to office: Issue order copy on 20.12.2022

To

- 1.The Inspector General of Registration,
Office of the Inspector General of Registration,
Santhome, Chennai – 600 004.
- 2.The Joint-II Sub-Registrar,
Cuddalore.



WEB COPY



W.P.No.30758 of 2022

M.DHANDAPANI,J.

gba

W.P.No.30758 of 2022



WEB COPY



W.P.No.30758 of 2022

18.11.2022