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W.P. No.31034 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.31034 of 2022

Buvneshwari

... Petitioner

Vs.

1. The Sub Registrar,
Velakovil,
Tiruppur District.

2. Sakthivel

3. Gowsalya

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent in relates to refusal number RFL/Velakovil/65/2022 dated 23.09.2022 and quash the same in the light of judgment in (2019)3 MLJ. 517, and direct the first respondent to register the Lok Adalat award in Case No.227/2021 dated 07.08.2021.

For Petitioner : Ms.Revathi Radhakrishnan

For R1 : Mr.E.Sundaram
Government Advocate

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent in relates to refusal number RFL/Velakovil/65/2022 dated 23.09.2022 and



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quash the same in the light of judgment in (2019)3 MLJ. 517, and direct the first respondent to register the Lok Adalat award in Case No.227/2021 dated 07.08.2021.

2. Since no adverse order is being passed against the private respondents, notice to the private respondents is dispensed with.

3. Mr.E.Sundaram, learned Government Advocate takes notice for the first respondent. In view of the limited relief sought for in this petition and on the consent expressed by the learned counsel appearing on either side, this Writ Petition itself is taken up for final disposal.

4. The case of the petitioner is that the petitioner had purchased the property along with second and third respondents in Survey No.281/3C, of an extent of 0.23 ½ acres, situated at Muthur Village, Kangayam Taluk, Tiruppur District. The second respondent asked the other co-sharers for amicable partition, since it has been denied by the co-sharers, hence the second respondent filed a suit for partition seeking 1/3 in the suit property. While the suit is pending, the matter was referred to Lok Adalat, then the matter was settled amicably and joint settlement memo was filed. Based on



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the settlement memo, award has been passed by the Lok Adalat on 07.08.2021 in case No.277/2021. In order to register the said Lok Adalat award, dated 07.08.2021 in case No.277/2021, the petitioner presented the same before the first respondent for registration. However, the said document was refused to be registered by the first respondent on 23.09.2022 on the ground that the decree has not been presented for registration within the stipulated time. Challenging the same, the petitioner had filed the present Writ Petition.

5. Though very many grounds have been raised, learned counsel for the petitioner submits that, no time limit is prescribed for registering a document in the Registration Act and citing the reason for delay in presenting the document, by the first respondent, is not sustainable.

6. The learned counsel for the petitioner relied 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. In the said decision, the Division Bench of this Court followed the earlier Division Bench decisions of this Court reported in ***2007 (2) TCJ 68 (A.K.Gnanasankar vs. Joint -II Sub Registrar, Cuddalore)*** and ***2019 (3)***



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MLJ 571 (S.Sarvothaman vs. The Sub-Registrar, Oulgarpet), wherein the

Court held that a Court's 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 in W.P.No.9577 of 2021, 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:

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"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."

7. The learned Government Advocate appearing for the first respondent submitted that, the application of the petitioner, seeking to register the Civil Court's decree, was rejected under Section 23 of the Registration Act.

<https://www.mhc.tn.gov.in/judis> 8. Considering the facts and circumstances, admittedly, the petitioner



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obtained Lok Adalat award, dated 07.08.2021 in case No.227/2021. When the said decree was presented before the first 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.

9. Accordingly, this Writ Petition is allowed and the impugned order passed by the first respondent is set aside and the first respondent is directed to entertain the Lok Adalat award, dated 07.08.2021 in case No.227/2021 passed by the learned District Munsif, Kangayam in accordance with law, if it is otherwise in order. No costs.

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Index : Yes / No
Speaking order : Yes/ No
jd

To
The Sub Registrar,
Velakovil,
Tiruppur District.



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M.DHANDAPANI, J.

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