



W.P.No.31775 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2022

CORAM:

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

W.P.No.31775 of 2022

J.Tamil Selvi

. . . Petitioner

Vs.

The Sub-Registrar,
Coimbatore Joint-I Sub-Registrar Office
Coimbatore-641 018

. . . 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 Order/Check Slip in RFL/Coimbatore Joint I/35/2022 dated 01.10.2022, issued by the respondent and quash the same directing the respondent to register the document i.e., Final Decree dated 03.01.2014 passed in I.A.No.573 of 2008 in O.S.No.112 of 2006 presented for registration by the petitioner after completing all the formalities of the registration and to return the same to the petitioner.

For Petitioner	: M/s.Ralph.V.Manohar
For Respondent	: Mr.C.Kathiravan, Special Government Pleader



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ORDER

The present petition has been filed seeking the relief of quashment of the impugned refusal check slip dated 01.10.2022 refusing to register the Court decree dated 03.01.2014 made in I.A.No.573 of 2008 of 2007 in O.S.No.112 of 2006 on the file of the Principal Sub-Ordinate Judge at Coimbatore and direct the respondent to register the said decree and return the same to the petitioner.

2. Mr.C.Kathiravan, learned Special Government Pleader takes notice for the respondent.

3. The case of the petitioner is that the partition suit was filed in O.S.No.112 of 2006 in which, a final decree dated 03.01.2014 was passed in I.A.No.573 of 2008. Thereafter, the petitioner presented the said decree before the respondent for registration, however, the respondent refused to register the same, vide the impugned Refusal Check Slip No.RFL/Coimbatore/I/35/2022 dated 01.10.2022 on the ground that the decree has



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been presented for registration beyond the period of limitation. Challenging the impugned refusal check, the present 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:



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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."

6. The learned Special 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.



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7. It is not in dispute that the Court decree which was presented was not entertained citing delay in submission. It is to be pointed out that this Court, in a *catena* of decisions, has held that the Registrar cannot refuse registration of a Court decree on the ground of limitation.

8. In the case of ***M.Rajendran Vs The Inspector General of Registration*** in ***W.P.(MD).Nos.8091 of 2020 etc batch*** learned Single Judge of this Court, after the discussing the various decisions on the said issue held as under:-

“ 16. It is evident that while the subsequent Division Bench, which passed the order in W.A.(MD.No.336 of 2019 was dealing with this issue, a specific reference was made to the judgment of the earlier Division Bench in W.A.No.2385 of 2003 at para 14 of the Judgment. The Subsequent Division Bench also took note of various other judgments that were rendered on the same lines and ultimately at paragraph 21 of the judgment, it was held 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 registrable 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 would not stand attracted.”



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17. It is clear from the above that the limitation prescribed under the Act will not stand attracted insofar as an order or decree passed by a competent court is concerned. This Judgment has also been consequently followed in the latest judgment by a Division Bench in W.A.(MD)Mo.902 of 2021, dated 26.04.2021. Therefore, this ratio has been consistently followed till date.

In view of the ratio laid down aforesaid by the Hon'ble Apex Court, which is squarely applicable to the case on hand, this Writ Petition deserves to be allowed.

9. 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.112 of 2006 & I.A.No.573 of 2008, dated 03.01.2014 passed by the Principal Sub-Ordinate Judge, Coimbatore forthwith, if there is no other legal impediment to register the same. No costs.

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Internet : Yes / No

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M.DHANDAPANI, J.

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To

The Sub-Registrar,
Coimbatore Joint-I Sub-Registrar Office
Coimbatore-641 018

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