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W.P.No.31381 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2022

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

W.P.No.31381,31382,31384 and 31385 of 2022

1. R. Nallusamy	...Petitioner in W.P.No.31381/2022
2. S. Chandradevi	...Petitioner in W.P.No.31382/2022
3. Vsanthi	...Petitioner in W.P.No.31384/2022
4. K. Chinnusamy	...Petitioner in W.P.No.31385/2022

Vs.

The Sub Registrar
O/o Sub Registrar,
Paramathi,
Paramthi Velur Taluk,
Namakkal District

... Respondent in all W.P.s

Prayer in W.P.No.31381 of 2022: _____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 in Refusal Check Slip in RFL/Paramathi/88/2022 dated 11.11.2022 passed by the respondent, quash the same and consequently direct the respondent to register the Final Decree dated 05.09.2014 made in I.A.No.855 of 2014 in O.S.No.207 of 2007 passed by the learned Sub Court, Namakkal and release the document and pass orders.

Prayer in W.P.No.31382 of 2022: _____Petition filed under Article 226 of the



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Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order in Refusal Check Slip in RFL/Paramathi/89/2022 dated 11.11.2022 passed by the respondent, quash the same and consequently direct the respondent to register the Final Decree dated 05.09.2014 made in I.A.No.855 of 2014 in O.S.No.207 of 2007 passed by the learned Sub Court, Namakkal and release the document and pass orders

Prayer in W.P.No.31384 of 2022: 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 in Refusal Check Slip in RFL/Paramathi/90/2022 dated 11.11.2022 passed by the respondent, quash the same and consequently direct the respondent to register the Final Decree dated 05.09.2014 made in I.A.No.855 of 2014 in O.S.No.207 of 2007 passed by the learned Sub Court, Namakkal and release the document and pass orders

Prayer in W.P.No.31385 of 2022: 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 in Refusal Check Slip in RFL/Paramathi/91/2022 dated 11.11.2022 passed by the respondent, quash the same and consequently direct the respondent to register the Final Decree



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dated 05.09.2014 made in I.A.No.855 of 2014 in O.S.No.207 of 2007
passed by the learned Sub Court, Namakkal and release the document and
pass orders

For Petitioner : Mr.N. Manokaran

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

COMMON ORDER

The petitioners have filed these petitions for quashment of the proceedings of the respondent dated 11.11.2022 refusing to register the Court decree dated 06.04.2010 made in 05.09.2014 made in I.A.No.855 of 2014 in O.S.No.207 of 2007 on the file of the learned Sub Court, Namakkal

2. The case of the petitioners are that the petitioners and some others filed a partition decree before the Sub Court, Namakkal and the same was ended in compromise and a final decree was passed on 05.09.2014 in I.A.No.855 of 2014 in O.S.No.207 of 2007. Thereby, the petitioner presented the application before the respondent for registration, however, the respondent refused to register the same, on the ground that the decree has been presented for registration beyond the stipulated period , which is contrary to the period stipulated in Section 23 & 25 of the Registration Act, 1908. Hence, these Writ Petitions came to be filed.



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3. Learned counsel for the petitioners 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 petitioners 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:

*“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



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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."

5. The learned Additional Government Pleader appearing for the respondents submitted that the said application was rejected under section 23 and 25 of the Registration Act, 1908.



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6. It is not in dispute that the petitioners are 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 *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, these writ petition are **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 I.A.No.855 of 2014 in O.S.No.207 of 2007 passed by the learned Sub Court, Namakkal without referring the delay. No costs.

24.11.2022

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No



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M.DHANDAPANI,J.

Smn

To
The Sub Registrar
O/o Sub Registrar,
Paramathi,
Paramthi Velur Taluk,
Namakkal District

W.P.No.31381,31382,31384 and
31385 of 2022

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