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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2022

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

W.P.No.32209 of 2022

K.R.Balaraman ...Petitioner

Vs.

The Joint Sub-Registrar,
Office of Sub Registrar,
Dhadagapatti, Salem ...Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for records with respect of the impugned proceedings of the respondent in Refusal Number: RFL/Dhadagapatti/64/2022 dated 21.09.2022 and quash the same consequently direct the respondent to register the Decree dated 28.04.2016 passed in O.S.No.117 of 2014 on the file of IInd Additional District and Sessions Judge, Salem within a stipulated period as fixed by this Hon'ble Court.

For Petitioner : Mr.R.Nalliyappan

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

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ORDER

The petitioner has filed this Writ petition for quashment of the proceedings of the respondent dated 21.09.2022 refusing to register the Court decree dated 28.04.2016 made in O.S.No.117 of 2014 on the file of II Additional District and Sessions Judge, Salem and for a consequential direction to the respondent to register the same.

2. The case of the petitioner is that, one Saravanan and two others filed a suit as against the petitioner and three others in O.S.No.117 of 2014 on the file of the II Additional District and Sessions Judge, Salem in respect of the property comprised in S.F.No.39/1, Resurvey No.39/1A situated at Dhadagapatti Village, Salem District and the same was dismissed on 28.04.2016, against which as no appeal has been preferred, the said decree and judgment dated 28.04.2016 became final. While so, when the petitioner presented the above said decree for registration, the same was rejected by the respondent, vide present impugned refusal check slip bearing No. RFL/Dhadagapatti/64/2022 dated 21.09.2022, on the ground that the said

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decree was presented for registration beyond the time limit prescribed under Section 23A, 25 and 35 of the Registration Act, 1908. Challenging the said refusal check slip, the present Writ Petition is filed.

3. Learned counsel for the petitioner submitted that no time limit is prescribed under the Registration Act, 1908 with regard to registration of the Court decree. Therefore, citing the delay in presenting the document as a ground for rejection and refusing to register the same is not sustainable. Hence, he prayed for allowing this Writ petition.

4. He further relied upon the 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 wich, 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

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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

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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. Learned Additional Government Pleader appearing for the respondents submitted that the document presented by the petitioner was rejected on the ground that the said Decree and judgment came to be passed on 28.04.2016 and the petitioner has presented the same for registration after a lapse of about 6 years, which is beyond the time limit prescribed under Section 23A & 25 of the Registration Act, 1908. Hence, he prayed for dismissal of this Writ petition.

6. Heard learned counsel on either side and perused the materials available on record.

7. It is not in dispute that the petitioner is in possession of a Court

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decree which when presented was not entertained citing the delay in submission. It is to be pointed out that, this Court, in catena of decisions held that the Registrar cannot refuse the 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 stated supra* 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)*.

8. Accordingly, this Writ petition is allowed and the order impugned in this petition is set aside and the matter is remanded to the respondent for fresh consideration and the respondent is directed to entertain the judgment and decree dated 28.04.2016 made in O.S.No.117 of 2014 passed by the II Additional District and Sessions Judge, Salem, without referring to delay. No costs.

01.12.2022

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Speaking Order : Yes/ No
Index : Yes/ No

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To

The Joint Sub-Registrar,
Office of Sub Registrar,
Dhadagapatti, Salem

M.DHANDAPANI, J.

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