



W.P.No.32378 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.32378 of 2022

M.Kanagaraj

... Petitioner

Vs.

The Sub-Registrar,
Avalpoonthurai Sub Registrar Office,
Erode District.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the Refusal Check Slip in refusal number RFL/Avalpoonthurai/114/2022 dated 09.11.2022 and to quash the same as illegal and incompetent and consequently direct the respondent to register the decree dated 01.10.2021 passed in O.S.No.338 of 2021 on the file of the II Additional District and Sessions Judge, Erode.

For Petitioner : Mr.M.Guruprasad

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

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the Refusal Check Slip in refusal number RFL/Avalpoonthurai/114/2022 dated



W.P.No.32378 of 2022

09.11.2022 and to quash the same as illegal and incompetent and consequently direct the respondent to register the decree dated 01.10.2021 passed in O.S.No.338 of 2021 on the file of the II Additional District and Sessions Judge, Erode.

2. Mr.G.Krishna Raja, learned Additional Government Pleader takes notice for the 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 petition is taken up for final disposal.

3. The case of the petitioner is that, the petitioner had filed a Suit in O.S.No.338 of 2021 to divide the properties among himself and his sister. Thereafter, they had entered into compromise agreement via., I.A.No.03 of 2021 in O.S.No.338 of 2021 under Order 23 Rule 3 Section 151 of CPC before the learned Trial Court. Pursuant to the compromise agreement in I.A.No.03 of 2021, the properties were allotted to them. Further, the petitioner presented the said decree for registration on 09.11.2022 before the respondent. However, the said document was refused to be registered by the



W.P.No.32378 of 2022

respondent on the ground that the decree has not been presented for registration within the time stipulated. Challenging the same, the present writ petition has been filed by the petitioner.

4. 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 respondent, 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



W.P.No.32378 of 2022

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



W.P.No.32378 of 2022

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 Additional Government Pleader appearing for the respondent submitted that, the application of the petitioner, seeking to register the Civil Court's decree, was rejected under Section 23 of the



W.P.No.32378 of 2022

Registration Act.

WEB COPY

7. Considering the facts and circumstances, admittedly, the petitioner obtained a decree dated 01.10.2021 in O.S.No.338 of 2021. When the said decree was presented before the 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.

8. Accordingly, this Writ Petition is allowed and the impugned order passed by the respondent is set aside and the respondent is directed to entertain the decree in O.S.No.338 of 2021, dated 01.10.2021 passed by the learned II Additional District and Sessions Judge, Erode, in accordance with law, if it is otherwise in order. No costs.

01.12.2022

Index : Yes / No

Speaking Order: Yes/No

jd



W.P.No.32378 of 2022

To

WEB.COM

The Sub-Registrar,
Avalpoonthurai Sub Registrar Office,
Erode District.



WEB COPY



W.P.No.32378 of 2022

M.DHANDAPANI,J.

jd

W.P.No.32378 of 2022

01.12.2022