



W.P.No.32356 of 2022

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.32356 of 2022

K.Vadivel

... Petitioner

Vs.

The Sub Registrar,
Pappireddipatti Sub Registrar Office,
Dharmapuri 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 relating to the impugned order passed by the respondent dated 24.11.2022 made in refusal check slip reference No. Ref.No.RFL/Pappireddipatti/34/2022 refusing to register the Fair and Decretal Order in R.E.A.No.51/2018 in R.E.P.No.36 of 2000 dated 18.09.2019 passed by the learned Subordinate Judge, Omalur, Salem District and to quash the same and consequently direct the respondent to register the said Fair and Decretal order and to return the documents on its registration forthwith.

For Petitioner : Mr.C.Prabakaran

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 relating to the impugned order passed by the respondent dated 24.11.2022 made in refusal check slip



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reference No. Ref.No.RFL/Pappireddipatti/34/2022 refusing to register the Fair and Decretal Order in R.E.A.No.51/2018 in R.E.P.No.36 of 2000 dated 18.09.2019 passed by the learned Subordinate Judge, Omalur, Salem District and to quash the same and consequently direct the respondent to register the said Fair and Decretal order and to return the documents on its registration forthwith.

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 is the owner of the property comprised in Survey No.193/5, measuring an extent of 47 cents out of 94 cents and Survey No.332/1, measuring an extent of 4.49 acres with a well, situated at Kedunayakkanpatti Village, Pappireddipatti Taluk, Dharmapuri District. Due to financial crisis, the petitioner borrowed a loan from the Indian Bank, Deevattipatti Branch, Salem District. The said loan amount was not repaid by the petitioner for various reasons. Therefore, the



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Indian Bank have filed R.E.P.No.36 of 2000 in respect of the aforesaid property before the Sub Court, Omalur. In the said execution petition, the Bank have filed R.E.A.No.51 of 2013 for delivery of possession. Thereafter, a compromise Muchalika was entered between the petitioner and Indian Bank, Deevattipatti Branch on payment of entire due amount. In the said Compromise Memo, the Indian Bank agreed to invalidate the sale certificate dated 15.06.2011 and further agreed that they have no claim over the property which is subject matter in E.P. The said Muchalika was entered on 16.09.2019 followed by the same, the learned Subordinate Judge, Omalur have terminated the E.P. by a fair and decretal order, dated 18.09.2019 in accordance with the said compromise Muchalika. In order to avoid further complications, the petitioner decided to register the order passed in the execution Court in R.E.A.No.51 of 2018 in R.E.P.No.36 of 2000 on the file of Sub-Court, Omalur dated 18.09.2019. Accordingly, the petitioner presented the said fair and decretal order on 24.11.2022 before the respondent. However, the said document was refused to be registered by the respondent on the ground that the document has not been presented for registration within the time stipulated. Challenging the same, the present writ petition has been filed by the petitioner.



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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 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 party. In such circumstances, the law laid down by this Court clearly states that the limitation prescribed under the



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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 Registration Act.

7. Considering the facts and circumstances, admittedly, the petitioner



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obtained a fair and decretal order, dated 18.09.2019 in R.E.A.No.51 of 2018 in R.E.P.No.36 of 2000. 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 fair and decretal order, dated 18.09.2019 in R.E.A.No.51 of 2018 in R.E.P.No.36 of 2000 passed by the learned Subordinate Judge, Omalur in accordance with law, if it is otherwise in order. No costs.

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Index : Yes / No

Speaking Order: Yes/No

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To

The Sub Registrar,
Pappireddipatti Sub Registrar Office,
Dharmapuri District.



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M.DHANDAPANI,J.

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