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W.P.No.32401 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.32401 of 2022
and
W.M.P.No.31801 of 2022

A.Chinnappan

... Petitioner

Vs.

1.The District Registrar (Admin),
Assistant Inspector General of Registration (Rank),
Erode Registration District,
Erode.

2.The Sub Registrar,
Office of the Sub Registrar office,
Kodumudi – 638 151.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for records relating to the impugned order made in Refusal slip in proceeding No.381/O.Tho.Mu/2022 dated 21.10.2022 passed by the 1st respondent quash the same and consequently direct the 2nd respondent register the decree dated 25.10.2017 made in O.S.No.153 of 2011 passed by the District Munsif Cum Judicial



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Magistrate Court, Kodumudi.

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For Petitioner : Mr.K.Karthikeyan
For Respondents : Mr.E.Sundaram
Government Advocate

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 made in Refusal slip in proceeding No.381/O.Tho.Mu/2022 dated 21.10.2022 passed by the 1st respondent, quash the same and consequently, direct the 2nd respondent to register the decree dated 25.10.2017 made in O.S.No.153 of 2011 passed by the District Munsif Cum Judicial Magistrate Court, Kodumudi.

2. Mr.E.Sundaram, learned Government Advocate takes notice for the respondents. 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 for injunction against his brother, namely Mr.Guruvan in O.S.No.153 of 2011



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on the file of District Munsif Cum Judicial Magistrate Court, Kodumudi.

The Suit was contested and the same was decreed in favour of the petitioner on 25.10.2017. Further, the petitioner filed a copy of application of the said decree and submitted before the Sub-Registrar Office/second respondent along with valuation slip for register the document as per the original suit decree and the same was forwarded to the District Registrar/first respondent, the first respondent issued the order dated 06.10.2017. Thereafter, the petitioner paid the necessary charges and presented the said decree for registration on 21.10.2022 before the respondents. However, the said document was refused to be registered by the respondents 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 respondents, is not sustainable.



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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 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



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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 Government Advocate appearing for the respondents 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 obtained a decree dated 25.10.2017 in O.S.No.153 of 2011. When the said decree was presented before the respondents 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



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passed by the first respondent is set aside and the second respondent is directed to entertain the decree in O.S.No.153 of 2011, dated 25.10.2017 passed by the District Munsif Cum Judicial Magistrate Court, Kodumudi in accordance with law, if it is otherwise in order. No costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes / No
Speaking Order: Yes/No
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To

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- 2.The Sub Registrar,
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M.DHANDAPANI,J.

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