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W.P.No.32622 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.32622 of 2022

Dhanabagiyam

... Petitioner

Vs.

1. The Inspector General of Registration,
No.100, Santhome High Road,
Foreshore Estate,
Pattinapakkam, Chennai – 600 028.

2. The Sub-Registrar,
Palladam Sub Registrar Office,
16, Mangalam Road,
Palladam.

... Respondents

PRAYER: The Writ Petition filed under Section 226 of the Constitution of India, pleased to issue a Writ or direction or order more particularly in the nature of Writ of Certiorarified Mandamus calling for the records of the second respondent vide refusal check slip in RFL/Palladam/48/2022 dated 14.07.2022 and quash the same as illegal, arbitrary and unlawful and direct the second respondent to register the certified copy of the decree dated 10.07.2018 passed by the District Munsif Court, Coimbatore in O.S.No.57 of 2018, on payment of necessary stamp duty and registration charges and without insisting on the period of limitation under Section 23 of the Registration Act, 1908.



WEB COPY



W.P.No.32622 of 2022

For Petitioner : Mr.S.Ambal Vannan

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

ORDER

Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus to quash the proceedings of the second respondent vide refusal check slip in RFL/Palladam/48/2022 dated 14.07.2022 and direct the second respondent to register the certified copy of the decree dated 10.07.2018 passed by the District Munsif Court, Coimbatore in O.S.No.57 of 2018, on payment of necessary stamp duty and registration charges and without insisting on the period of limitation under Section 23 of the Registration Act, 1908.

2. The case of the petitioner is that the petitioner and her sister filed a suit for declaration in O.S.No.728 of 2016 before the District Munsif Court, Coimbatore which was transfeered to District Munsif Court, Sulur, Coimbatore and renumbered as O.S.No.57 of 2018 and the same was allowed vide order dated 10.07.2018 in faovur of the petitioner. When the petitioner presented the certified copy of the said Decree dated 10.07.2018, before the second respondent for registration, the same was refused to be registered on the ground



W.P.No.32622 of 2022

of delay in presenting the said decree vide refusal check slip dated 14.07.2022.

Challenging the same, the present writ petition has been filed seeking the aforesaid relief.

3. Learned counsel for the petitioner 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 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:



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“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 registrable 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."

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.



W.P.No.32622 of 2022

WEB COPY

6. It is not in dispute that the petitioner is 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, this writ petition is allowed and the impugned order passed by the second respondent is set aside and the matter is remanded to the second respondent and the second respondent is directed to entertain the Order in O.S.No.57 of 2018 dated 10.07.2018 passed by the District Munsif Court, Sulur without referring the delay. No costs.

02.12.2022

Speaking Order : Yes/No
Index : Yes/No

RAP



W.P.No.32622 of 2022

WEB COPY

To

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Pattinapakkam, Chennai – 600 028.
2. The Sub-Registrar,
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W.P.No.32622 of 2022

M.DHANDAPANI,J

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W.P.No.32622 of 2022

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