

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED 06.09.2022**

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN**W.P(MD)No.15456 of 2022**

V.Muthusamy @ Abdul Majid @ Jahir Hussain ..Petitioner

Vs

The Sub-Registrar,
Alangulam Registrar Office,
Alangulam, Tenkasi District. ..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to quash the impugned order passed by the respondent in RFL/Alangulam/1/2022, dated 12.1.2022 and further to direct the respondent to register the judgment and decree dated 15.2.2021 passed in A.S.No.38 of 2013 on the file of Principal Sub-Court, Tenkasi presented by the Writ Petitioner.

For Petitioner :Mr.T.Selvan

For Respondent :Mr.K.S.Selvaganesan
Additional Govt.Pleader

ORDER

This Writ Petition has been filed seeking to quash the impugned order passed by the respondent in RFL/Alangulam/1/2022, dated 12.1.2022 and further to direct the respondent to register the judgment and decree dated 15.2.2021 passed in A.S.No.38 of 2013 on the file of



Principal Sub-Court, Tenkasi presented by the Writ Petitioner.

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2. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3. The case of the Petitioner is that his father had executed a settlement deed in respect of the family property in favour of the Petitioner on 4.12.2000 in Document No.3567 of 2006 and thereafter, the Petitioner was in possession and enjoyment of the said property. Thereafter, his sisters in order to grab the said properties, created false documents and filed a suit in O.S.No.170 of 2008, on the file of Principal District Munsif Court, Tenkasi for declaration and injunction against the Petitioner and the same was allowed on 18.09.2013. Aggrieved by the same, the Petitioner had preferred an appeal in A.S.No.38 of 2013, on the file of Principal Sub-Court, Tenkasi and the same was allowed in his favour on 15.2.2021. Against the said judgment no appeal has been preferred by his sisters and hence, the Petitioner had presented the judgment and decree made in A.S.No.38 of 2013 for registration before the respondent and the same was refused to be registered stating that the said document was not presented for registration in time. But there is no limitation or bar imposed under the Registration Act to present the Court judgment and decree for registration within a specified time. Hence the order passed by the registering authority refusing to register the document is



unsustainable. Hence the Petitioner has come forward with the present Writ Petition for the relief stated supra.

4. According to the Petitioner, there is no limitation for presenting the Court decree for registration, as registration of the Court decree is only optional and not mandatory.

5. The Petitioner further submits that the Courts have repeatedly held that no registering authority shall refuse to register any Court decree on the ground of limitation.

6. In support of his contention, the learned counsel relied upon a Division Bench Judgment of this Court in the case of **Sarvothaman .vs. The Sub Registrar, Oulgaret, Pondicherry reported in 2019 (3) MLJ 517** and would submit that this Court has categorically held that the limitation prescribed in Section 23 of the Registration Act, 1908 cannot apply to a Court decree and also held that Proviso to Section 23 of the Registration Act, 1908 does not apply insofar as limitation is concerned for registration of the Court decree, since it is not a compulsorily registrable document and this Court further held that the limitation period prescribed in Proviso to Section 23 of the Act can only be treated as directory and therefore the mandatory requirement of registration of document before 4 months as contemplated under Section 23 of the Act cannot be put



against any party, who wants to register the decree or order.

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7.This Court in a case of similar nature in **W.P.No.21546 of 2021, dated 6.10.2021(A.K.C.Rajenderan .vs. The District Registrar(Admn), Office of the Registrar, Nagapattinam and three others)** allowed the Writ Petition by setting aside the impugned order with a further direction to register the documents as sought for and the operative portion of the said order reads as under:

"In view of the above and considering the submissions made by the Petitioner, this Court is inclined to set aside the Refusal Check Slip, dated 7.9.2021 issued by the second respondent and the Writ Petition is allowed by directing the respondents to register the decree dated 4.12.2014 passed in I.A.No.88 of 2013 in O.S.No.25 of 2012 passed by the Principal District Judge, Thiruvarur in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. No costs."

8.Following the same, this Writ Petition is allowed by setting aside the impugned order passed by the respondent in RFL/Alangulam/1/2022, dated 12.1.2022 with a further direction to the respondent to register the judgment and decree, dated 15.2.2021 passed in A.S.No.38 of 2013



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on the file of Principal Sub-Court, Tenkasi presented by the Writ
Petitioner. No costs.

06.09.2022

Index : Yes/No

Internet:Yes/No

vsn

To

The Sub-Registrar,
Alangulam Registrar Office,
Alangulam, Tenkasi District.



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V.BHAVANI SUBBAROYAN,J

vsn

ORDER MADE IN

W.P(MD)No.15456 of 2022

06.09.2022



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