



W.P.(MD).No.21942 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.09.2022

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.21942 of 2022

R.Vijayabaskar

... Petitioner

VS.

The Sub Registrar,
Registration Department,
Ottapidaram,
Tuticorin District.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order of the respondent in his proceedings in Na.Ka.No. 293/2022, dated 30.08.2022 and direct the respondent to register the Preliminary Decree in O.S.No.23/2014, dated 21.03.2016 and Final Decree in I.A.No.158/2016 in O.S.No.23/2014, dated 07.03.2017, on the file of the I Additional District Judge, Tuticorin, in the light of the judgment reported in 2019 (3) MLJ 517 equivalent 2019 (2) CWC 314, within the time stipulated by this Court.



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For Petitioner : Mr.V.Karthikeyan
For Respondent : Mr.S.R.A.Ramachandran
Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the proceedings of the respondent in Na.Ka.No.293/2022, dated 30.08.2022 and quash the same and consequently direct the respondent to register the preliminary decree in O.S.No.23 of 2014, dated 21.03.2016 and final decree in I.A.No.158 of 2016 in O.S.No.23 of 2014, dated 07.03.2017, on the file of the I Additional District Judge, Tuticorin, in the light of the judgment reported in **2019 (3) MLJ 517** equivalent **2019 (2) CWC 314**.

2. By consent of both parties, the writ petition is taken up for final disposal at the stage of admission itself.

3. The case of the petitioner is that he has filed a suit in O.S.No.23 of 2014 before the 1st Additional District Judge, Tuticorin, against three others viz., V.Krishnamoorthy, V.Muthulakshmi and K.Santhanalakshmi.



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It is further stated that the trial Court has passed the preliminary decree in favour of the petitioner on 21.03.2016 and the final decree in I.A.No.158 of 2016 in O.S.No.23 of 2014, on 07.03.2017. Thereafter, the petitioner has given a representation dated 15.11.2021, to the respondent for registration. But, on 30.08.2022, the respondent has rejected the petitioner's application dated 12.08.2022. Hence, the petitioner has filed the present writ petition, seeking to quash the impugned order of the respondent.

4. The issue is no more *res integra*, as this Court in few judgements has held that the Court decree is not compulsorily registrable and that the limitation prescribed under the Act is not attracted for registering a decree and registration and presentation of the decree from the date of obtaining of certificate copy will be well within the time limit prescribed under Section 23 of the Act. The judgment of learned Single Judge reported in the case of ***S.Sarvotham vs Sub Registrar, Oulgaret, Pondichery***, reported in ***2019 (3) MLJ 517*** was also followed in the case of ***S.Kangammal vs The Sub Registrar, Virudhunagar District***, in W.P.



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(MD)No.26399 of 2019, dated 12.12.2019.

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5. As the issue has been settled by this Court and this Court has consistently taken the view that bar of limitation under Section 23 of the Act is not applicable to Court Decree. Hence, the petitioner is entitled to succeed. Accordingly, this Writ Petition is allowed and the impugned order of the respondent dated 30.08.2022 is quashed and the respondent is directed to register the judgment and decree in O.S.No.23 of 2014, dated 21.03.2016 and final decree in I.A.No.158 of 2016 in O.S.No.23 of 2014, dated 07.03.2017, in the light of judgment of this Court earlier and the order in the present Writ Petition, within a period of three weeks from the date of receipt of a copy of this order. The petitioner is directed to present the decree within a period of one week from the date of receipt of a copy of this order. No costs.

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Index: Yes/No

Internet: Yes/No

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To

The Sub Registrar,
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V.BHAVANI SUBBAROYAN,J.

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