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W.P.No.14159 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.14159 of 2023

Balasubramani

... Petitioner

Vs.

The Sub Registrar,
Chennimalai SRO,
Erode District.

...Respondent

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, calling for the records relating to the impugned order made in check slip dated 29.11.2022 made in RFL/Chennimalai/49/2022 passed by the respondent and for consequent direction to register the decree dated 29.11.2010 in O.S.No.67 of 2010 on the file of the District Munsif Court, Kangayam.

For Petitioner : Mr.R.Prabakar

For Respondent : Mr.D.Ravichander, Special Govt. Pleader



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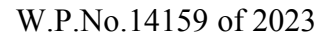
ORDER

The refusal check slip, issued by the Sub-Registrar/respondent on the ground of limitation, is under challenge in the present writ petition.

2.The writ petitioner presented the final decree proceedings for registration under the Registration Act and the respondent declined to register the same on the ground that the document was not presented within the time limit prescribed under Act under Section 23 of the Act.

3.The issue raised in the present writ petition is no more *res integra* since the Hon'ble Division Bench of this Court, in the case of ***S.Sarvothaman Vs. Sub Registrar, Pondicherry***, held that :

“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.”



4.Following the said judgment of the Division Bench, this Court also

5. The issue in this regard has been settled by the

"12. We have carefully considered the

13. As pointed out by us earlier, we need to

14. This question is no longer *res integra*



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prescribed for presenting a document does not apply to a decree, as it is a permanent record of the court and to register the same, no limitation is prescribed.

15. This decision was followed by one of us (TSSJ) in W.P.No.9352 of 2015 dated 31.3.2015 [B.Vijayan Vs. District Registrar & another]. Subsequently, a similar view had been taken by this Court in W.P.No.8247 of 2016 dated 07.3.2016 [G.Mudiyarasan & another Vs. Inspector General of Registration], which once again relied upon the decision in the case of A.K.Gnanasankar. Further, in the case of Arun Kumar Vs. Inspector General of Registration [W.P.No. 16569 of 2016 dated 06.6.2016], this Court directed registration of a judgment and decree passed by the Principal District Munsif Court, Salem by condoning the delay on an application filed by the person presenting the document and in that decision, this Court referred to the decision in the case of Rasammal Vs. Pauline Edwin & others [reported in 2011 (2) MLJ 57] wherein the Court considered the scope of Section 25 of the Act."

6. The said judgment of the Hon'ble Division Bench was followed in W.P.No.9944 of 2021 dated 23.04.2021. Thus, the petitioner is entitled for the relief on the ground



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that even in cases where such decree passed by the competent civil Court beyond the period prescribed under Section 23 of the Limitation Act, such document is to be registered by the Sub Registrar concerned. Therefore, the refusal check slip issued by the 2nd respondent cannot be sustained and stands quashed. Accordingly the petitioner is at liberty to submit a fresh application along with the document to the 2nd respondent and on receipt of such application from the petitioner, the 2nd respondent is directed to register the same, if the application is otherwise in order, without causing any further delay.

5. In view of the fact that the petitioner presented the final decree proceedings for registration in the present case, the writ petition is to be considered. Accordingly, the impugned refusal check slip issued by the respondent on 29.11.2022 is quashed and the respondent is directed to proceed with the registration if the papers are otherwise in order and by following the procedures as contemplated under the Act and the Rules.

6. Accordingly, the writ petition stands **allowed**. No costs.

(sha)
Index : Yes
Speaking Order

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Neutral Citation : Yes

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S.M.SUBRAMANIAM. J.,

(sha)

To

The Sub Registrar,
Chennimalai SRO,
Erode District.

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