



W.P.No.17690 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2023

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

W.P.No.17690 of 2017

and

W.M.P.No.19195 of 2017

Abinaya

... Petitioner

Vs.

1. The Inspector General of Registration,
100, Santhome Road,
Santhome, Chennai.

2. The District Registrar,
Office of the District Registrar,
Department of Registration,
Cuddalore.

3. The Sub Registrar,
Office of the Registrar,
No.667, Cuddalore Main Road,
Kullanchavadi,
Cuddalore District - 607 302.

...

Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order dated 28.04.2017 passed by the third respondent



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herein in his proceedings in PA.A.TH.I.MU.NO.XXX/2017 and quash the same and consequently direct the third respondent herein to receive and register the Final Decree dated 16.03.2016 in O.S.No.26 of 2005 on the file of the I Additional District-Cum-Sessions Judge, Cuddalore, within a stipulated time frame.

For Petitioner : M/s.J.Deepika
for M/s.D.Ravichander

For Respondents : Mr.V.Veluchamy
Additional Government Pleader

ORDER

This Writ Petition has filed to issue Writ of Certiorarified Mandamus, calling for the records of the impugned order dated 28.04.2017 passed by the third respondent herein in proceedings in PA.A.TH.I.MU.NO.XXX/2017 and to quash the same and also to direct the third respondent herein to register the final decree dated 16.03.2016 passed in O.S.No.26 of 2005 on the file of the I Additional District-Cum-Sessions Judge, Cuddalore.



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2. Learned counsel appearing for the petitioner submitted that the petitioner presented the final decree for partition, passed by the I Additional District-Cum-Sessions Judge, Cuddalore. dated 16.03.2016, before the third respondent, immediately after receiving the certified copy of the same. The third respondent refused to register the decree on the ground that the same was presented belatedly beyond the time limit as prescribed under Section 23 of Indian Registration Act. The limitation period as prescribed under Section 23 of Registration Act would not be applicable to the registration of decree. This Court and Hon'ble Supreme Court again and again consistently have held that the period of limitation for registering the decree passed by the court would not be applicable since the decree passed by the civil court is a permanent record and therefore it can be registered at any point of time.

3. Learned Additional Government Pleader appearing for the respondents is not in a position to say about the date of receipt of the decree by the third respondent.



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4. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

5. The third respondent has not stated in the impugned order, the date on which the decree for registration has been received. The date of receipt of decree ought to have been mentioned in the impugned order, in order to calculate the period of limitation under Section 23 of the Registration Act. The Hon'ble Division Bench of this Court has held that limitation 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. Based on the decision of the Court, the first respondent has also issued a circular in Na.Ka.No.34930/C1/2019 dated 27.02.2023 with regard to the same.

6. In view of the decision of the Division Bench of this Court and also the subsequent circular issued by the first respondent, the impugned order passed by the third respondent is set aside. The third respondent is



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directed to register the decree that was presented by the petitioner. If the decree was already returned to the petitioner, the petitioner is directed to resubmit the same before the third respondent and on receipt of the decree, the third respondent is directed to register the same in accordance with law.

7. With the abovesaid directions, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

03.11.2023

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No



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To

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P.VELMURUGAN, J.

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