



W.P(MD)Nos.28864 & 28865 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.28864 & 28865 of 2022

W.P.(MD)No.28864 of 2022:

Dinesh

... Petitioner

Vs

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 028.

2.The Sub Registrar,
North Veeravanallur Sub Registrar Office,
Veeravanallur,
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings of the second respondent in Na.Ka.No. 205/2022, dated 01.12.2022 and quash the same and consequently direct the second respondent to register the decree dated 26.04.1999 passed in O.S.No. 109 of 1999 on the file of the Principal District Munsif Court, Tirunelveli, presented by the petitioner on 01.12.2022.



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For Petitioner : Mr.S.S.Thesigan

For Respondents : Mr.S.Shanmugavel
Additional Government Pleader

W.P.(MD)No.28865 of 2022:

Dinesh

... Petitioner

Vs

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 028.

2.The Sub Registrar,
Kallidaikurichi,
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Refusal check slip issued by the second respondent in Refusal Number: RFL/Kallidaikurichi/70/2022, dated 01.12.2022 and quash the same and consequently direct the second respondent to register the decree dated 26.04.1999 passed in O.S.No.109 of 1999 on the file of the Principal District Munsif Court, Tirunelveli presented by the petitioner on 01.12.2022.

For Petitioner : Mr.S.S.Thesigan

For Respondents : Mr.S.Shanmugavel
Additional Government Pleader



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COMMON ORDER

Heard the learned counsel on either side.

2.The writ petitioner presented the decree dated 25.11.2022 made in O.S.No.109 of 1999 on the file of District Munsif Court, Tirunelveli for registration before the Sub Registrar, North Veeravanallur Sub Registrar Office and Sub Registrar, Kallidaikurichi. Both the registering authorities declined to register the document on the ground that the decree was presented belatedly. Challenging the same, these writ petitions have been filed.

3.As rightly submitted by the learned counsel appearing for the writ petitioner relying on the decision of the Hon'ble Division Bench made in W.A.No.336 of 2019 (***S.Sarvothaman Vs The Sub Registrar***) dated 07.02.2019 had held as follows:

“13. As pointed out by us earlier, we need to first address the legal issue, which arises for consideration as to whether at all the law of limitation as prescribed under Section 23 of the Act would apply to a court decree.

14. This question is no longer res integra and this Court has consistently held that the law of limitation will not apply when a court decree is presented for registration. Earliest of the decisions, which has been followed consistently by a Division



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*Bench of this Court is in the case of **A.K. Gnanasankar Vs Joint-II Sub-Registrar, Cuddalore-2** [reported in 2007 (2) TCJ 68]. In the said decision, this Court held that the 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.”*

The limitation set out in Section 23 of the Registration Act will not apply to Court decree. The orders impugned in these writ petitions are liable to be set aside. They are accordingly set aside.

4.The learned Additional Government Pleader points out that a decree sought to be registered is a compromise decree. The learned counsel for the petitioner draws my attention to the decision of the Hon'ble Division Bench reported in **(1952) 2 MLJ 464 (R.M.S.Deivanai Achi vs. P.L.L.N.Kannappa Chettiar)**. The issue raised in the writ petition was settled long back. Paragraph 7 of the decision of the Hon'ble Divion Bench is as follows:-

“7.Our attention has been drawn to R. 292 (b) of the Registration Manual, Part II, page 91. According to this rule as interpreted in practice by the Registration department, a person registering such a decree as that before us has the option of registration either under S. 28 or under S. 29(2). On a careful consideration of these two sections, we are of opinion that this is the correct legal position. Such a decree as that we are considering is clearly compulsorily



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registrable but S. 29(2) allows registration to be done at the option of the party in the office of the Sub-Registrar in whose sub-district the original decree or order was made.”

5.At this stage, the learned Additional Government Pleader raised further doubt. He submitted that the decree can be registered in the office of the Sub Registrar in whose jurisdiction the decree was made or in the office of the Sub Registrar where the immovable property covered by the decree is situated. He submitted that while the applicant has the option of presenting the document before either of the officers, he cannot present the same before both the offices.

6.But in the case on hand, the properties covered by the decree are located within the limits of Sub Registrar, Veeravanallur and also Sub Registrar, Kallidaikurichi. That is why, the petitioner has been constrained to present the document for registration before both the officers. The statute does not state that the decree cannot be registered in the office of more than one Sub Registrar. I do not find the objection sustainable. The petitioner is permitted to re-present the decree before the Sub Registrar Office, North Veeravanallur and Sub Registrar Office, Kallidaikurichi. The said registering authorities shall receive the documents and register it, release it subject to the fulfilment of other usual formalities.



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7. These writ petitions are allowed. There shall be no order as to costs.

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Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

Note: Issue Order Copy on 27.02.2023.

To

1. The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 028.
2. The Sub Registrar,
North Veeravanallur Sub Registrar Office,
Veeravanallur,
Tirunelveli District.
3. The Sub Registrar,
Kallidaikurichi,
Tirunelveli District.
4. The Principal District Munsif Court,
Tirunelveli.



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G.R.SWAMINATHAN, J.

MGA

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