BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.06.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD).Nos.8091, 8093 & 9446 of 2020

W.P.(MD).No.8091 of 2020

M.Rajendran ... Petitioner

Vs.

1.The Inspector General of Registration,
No.100, Santhome High Road,
Foreshore Estate,
Pattinapakkam,
Chennai – 600 028.

2.The Joint Sub Registrar No.I,
Madurai North,
Integrated Complex of Registration Department,
TNAU Nagar,
Rajakampeeram,
Y.Othakadai,
Madurai – 625 107.

3.The Government of Tamil Nadu,
represented through the Secretary to Government,
Commercial Taxes and Registration Department,
Fort St. George, Chennai.

... Respondents

(R3 has been impleaded as party respondent in this writ petitions vide Court order made in W.M.P.(MD).Nos.10620 of 2020 in W.P.(MD).No.8091 of 2020)

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the second respondent to register the certified copy of the decree, dated 12.10.2001, passed in the suit in O.S.No.3 of 2000, on the file of the District Munsif Court, Madurai Taluk and the decree, dated 16.03.2005 passed in the appeal in A.S.No.154 of 2002 on the file of the III Additional Subordinate Court, Madurai, on payment of registration charges alone without insisting for payment of any stamp duty and without insisting on the period of limitation under Section 23 of the Registration Act, 1908.

For Petitioner : Mr.J.Barathan for M/s.T.R.Jeyapalam

For Respondents : Mr.Veerakathiravan
Senior Government Counsel
assisted by Mr.R.Sureshkumar
Government Advocate

W.P.(MD).No.8093 of 2020

R.Panner Selvam ... Petitioner

Vs.

1.The Inspector General of Registration,
No.100, Santhome High Road,
Foreshore Estate,
Pattinapakkam,
Chennai – 600 028.

2.The Joint Sub Registrar No.I,
Madurai North,
Integrated Complex of Registration Department,
TNAU Nagar,
Rajakampeeram,
Y.Othakadai, Madurai – 625 107.

3.The Government of Tamil Nadu,
represented through the Secretary to Government,
Commercial Taxes and Registration Department,
Fort St. George, Chennai.

... Respondents

(R3 has been impleaded as party respondent in this writ petitions vide Court order made in W.M.P.(MD).Nos.10621 of 2020 in W.P.(MD).No.8093 of 2020)

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the second respondent to register the certified copy of the decree, dated 21/04/1999, passed in the suit in O.S.No.140 of 1998, on the file of the District Munsif Court, Madurai Taluk and the decree, dated 15/10/2004 passed in the appeal in A.S.No.93 of 2001 on the file of the Principal Subordinate Court, Madurai, on payment of registration charges alone without insisting for payment of any stamp duty and without insisting on the period of limitation under Section 23 of the Registration Act, 1908.

For Petitioner : Mr.J.Barathan for M/s.T.R.Jeyapalam

For Respondents : Mr.Veerakathiravan
Senior Government Counsel
assisted by Mr.R.Sureshkumar
Government Advocate

W.P.(MD).No.9446 of 2020

Sellammal ... Petitioner

Vs.

1.The District Registrar,
Registration Department,
District Collectorate Office,
Karur.

2.The Sub Registrar,
Mela Karur Registrar Office,
Hospital Road,
Karur. ... Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to register the Final Decree, passed in I.A.No.12 of 2005 in O.S.No.3 of 2004, dated 10.03.2016 on the file of the Principal District Judge, Karur, on payment of registration charges alone without insisting for payment of any stamp duty and without insisting any limitation under Section 23 of the Registration Act.

For Petitioner : Mr.P.Samuel Gunasingh

For Respondents : Mr.Veerakathiravan
Senior Government Counsel
assisted by Mr.R.Sureshkumar
Government Advocate

COMMON ORDER

The issue involved in all these writ petitions are common and hence, they are taken up together, heard and disposed of through this Common Order.

2.All these writ petitions are filed for the issuance of Writ of Mandamus directing the Sub Registrar to register the decree passed by the

competent Civil Court and not to reject the same on the ground of limitation as prescribed under Section 23 of the Registration Act, 1908 (herein after called as 'The Act').

3.Insofar as the W.P.(MD).Nos.8091 and 8093 of 2020, are concerned there is yet another issue that has been raised by the petitioners to the effect that the Sub Registrar should not insist for the registration fees based on the value of the property and it should be levied only on the total value of the suit.

4.Mr.Veerakathiravan, learned Senior Government counsel appearing on behalf of the respondents submitted that Section 23 of the Registration Act specifically provides for the time limit within which a document must be presented. By bringing to the notice of this Court the proviso to Section 23, the learned Senior Government counsel submitted that a decree should be presented for registration, within a period of four months from the date on which the decree or the order was made ready. Therefore, the learned counsel submitted that once the Act specifically provides for a time limit for presenting a decree for registration, on the expiry of the time limit, the said decree cannot be entertained by the Registrar.

5.The learned Senior Government counsel further developed his arguments by submitting that there are contradictory views taken in some of the judgments rendered by this Court and therefore, there must be some clarity on the applicability or otherwise on the issue of limitation insofar as the registration of court order or decree is concerned.

6.The learned Senior Government counsel brought to the notice of this Court the orders passed in W.P.(MD).No.13070 of 2009, dated 23.03.2007, W.P.(MD).No.5955 of 2014, dated 27.07.2014 and W.A.No.2395 of 2003, dated 27.07.2016. The first two orders were passed by a single Bench of this Court and the third order was passed by a Division Bench of this Court. By pointing out these orders, the learned Senior Government counsel submitted that in all these orders, it has been clearly held that a decree should be presented within a period of four months from the date it was made ready under Section 23 of the Act and there is scope for presenting the decree, within a further period of four months by virtue of Section 25 of the Act. Beyond this period, a decree cannot be entertained for registration by the Sub Registrar.

7.The learned Senior Government counsel, thereafter, proceeded to point out the contrary judgments in W.A.(MD).No.336 of 2019, dated 07.02.2019, W.P.(MD).No.13896 of 2019, dated 20.06.2019 and the latest

judgment of the Hon'ble Division Bench in W.A.(MD).No.902 of 2021, dated 26.04.2021. The learned Senior Government counsel submitted that in all these judgments, it has been held that insofar as the Court decree is concerned, limitation prescribed under the Act will not get attracted.

8.The learned Senior Government counsel submitted that it is clear from the above that there are two sets of judgments, which are contradictory to each other and therefore, there must be a clear pronouncement of law on the issue and hence, the issue requires consideration by a larger Bench.

9.Per contra, Mr.J.Barathan, learned counsel appearing on behalf of the petitioners in W.P.(MD).Nos.8091 & 8093 of 2020 and Mr.Samuel Gunasingh appearing on behalf of the petitioner in W.P.(MD).No.9446 of 2020, submitted that insofar as the first two orders pointed out by the learned Senior Government counsel, those are orders passed by learned single judges and in view of the subsequent Division Bench Judgments, those orders may not have any binding effect in deciding the issue. Insofar as the Division Bench judgment, that was pointed out in W.A.No.2395 of 2003, dated 27.07.2016, is concerned, it was submitted that the Division Bench in that case was not dealing with the issue as to whether a decree can be registered beyond the period of limitation. In the said judgment, the Division Bench was only explaining as to how the four months

period must be calculated while dealing with Section 23 of the Act. This judgment cannot be cited as a precedent for the preposition that a decree cannot be registered beyond the period of limitation provided under Section 23 and the extended period under Section 25 of the Act.

10.The learned counsel concluded their arguments by submitting that the above Division Bench Judgment in W.A.No.2395 of 2003 was taken note of by the subsequent Division Bench in W.A.(MD).No.336 of 2019 at paragraph 14 of the judgment and thereafter, it was held that the limitation prescribed under the Act will not apply to Court decrees. Therefore, it was submitted that the subsequent Division Bench Judgment in W.A.(MD).No.336 of 2019 holds the field and it is binding on a single Judge. It was also submitted that the law has been clearly pronounced by the Division Bench and there is no requirement to refer the matter to a larger Bench.

11.Mr.J.Barathan, learned counsel appearing on behalf of the petitioners in W.P.(MD).Nos.8091 & 8093 of 2021, further submitted that the respondents cannot insist for payment of the registration fee on the value of the property and it can be levied only on the total value of the suit. To substantiate his submission, the learned counsel placed reliance upon the judgment of this Court in the case of ***K.Krishnan Vs. The Inspector General of Registration and***

another reported in ***2019 (4) TLNJ 92 (Civil)***.

12.This Court has carefully considered the submission made on either side and the materials available on record.

13.This Court will now take up the first issue that arises for consideration as to whether there are contrary views with regard to the applicability of the limitation prescribed under the Act insofar as the orders or decrees passed by a competent Court.

14.It is true that the first two orders that have been brought to the notice of this Court by Mr.Veera Kathiravan, learned Senior Government counsel, have held that the decree cannot be entertained for registration beyond the period of limitation provided under the Act. These two orders were passed by learned single Judges of this Court. The third order that was brought to the notice of this Court was passed by the Hon'ble Division Bench. A careful reading of this order shows that the Division Bench was merely referring to Section 23 of the Act and explaining as to how the four months period provided therein must be calculated. This order does not deal with the preposition as to whether a decree or an order can be registered even beyond the period of limitation provided under the Act. While determining the ratio in a given

judgment, the same should be deduced from the facts of the concerned case and the reasons given by the Court for reaching a particular decision. Even a slight change in the facts of the case, will make the judgment inapplicable in a subsequent case which is based on a different set of facts and issues.

15.At this juncture, it will be relevant to take note of the following judgments of the Hon'ble Supreme Court.

a) In the case of ***Natural Resources Allocation In Re, Special Reference No.1 of 2012***, reported in ***2012 (10) SCC 1***. The relevant portions are extracted hereunder.

> *69.Article 141 of the Constitution lays down that the "law declared" by the Supreme Court is binding upon all the courts within the territory of India. The "law declared" has to be construed as a principle of law that emanates from a judgment, or an interpretation of a law or judgment by the Supreme Court, upon which, the case is decided. [See: Fida Hussain and Ors. v. Moradabad Development Authority). Hence, it flows from the above that the 'law declared' is the principle culled out on the reading of a judgment as a whole in light of the questions raised, upon which the case is decided. [Also see: Ambica Quarry Works v. State of Gujarat and CIT v. Sun Engg. Works (P) Ltd]. In other words, the 'law declared' in a judgment, which is binding upon courts, is the ratio decidendi of the*

judgment. It is the essence of a decision and the principle upon which, the case is decided, which has to be ascertained in relation to the subject-matter of the decision.

70. Each case entails a different set of facts and a decision is a precedent on its own facts; not everything said by a Judge while giving a judgment can be ascribed precedental value. The essence of a decision that binds the parties to the case is the principle upon which the case is decided and for this reason, it is important to analyse a decision and cull out from it, the ratio decidendi. In the matter of applying precedents, the erudite Justice Benjamin Cardozo in "The Nature of a Judicial Process", had said that "if the judge is to pronounce it wisely, some principles of selection there must be to guide him along all potential judgments that compete for recognition" and "almost invariably his first step is to examine and compare them;" "it is a process of search, comparison and little more" and ought not to be akin to matching "the colors of the case at hand against the colors of many sample cases" because in that case "the man who had the best card index of the cases would also be the wisest judge". Warning against comparing precedents with matching colours of one case with another, he summarized the process, in case the colours don't match, in the following wise words:

"It is when the colors do not match, when

the references in the index fail, when there is no decisive precedent, that the serious business of the judge begins. He must then fashion law for the litigants before him. In fashioning it for them, he will be fashioning it for others. The classic statement is Bacon's: 'For many times, the things deduced to judgment may be meum and tuum, when the reason and consequence thereof may trench to point of estate. The sentence of today will make the right and wrong of tomorrow.'"

71. With reference to the precedential value of decisions, in State of Orissa and Ors. v. Md. Illiyas this Court observed: (SCC p.282 para 12)

"12....According to the well-settled theory of precedents, every decision contains three basic postulates: (i) findings of material facts, direct and inferential. An inferential finding of facts is the inference which the Judge draws from the direct, or perceptible facts; (ii) statements of the principles of law applicable to the legal problems disclosed by the facts; and (iii) judgment based on the combined effect of the above. A decision is an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically flows from the various observations made in the judgment."

72. Recently, in Union of India v. Amrit Lal Manchanda, this Court has observed as follows: (SCC

p.83, para 15)

> *"15....Observations of courts are neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for Judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes."*

73. It is also important to read a judgment as a whole keeping in mind that it is not an abstract academic discourse with universal applicability, but heavily grounded in the facts and circumstances of the case. Every part of a judgment is intricately linked to others constituting a larger whole and thus, must be read keeping the logical thread intact. In this regard, in Islamic Academy of Education and Anr. v. State of Karnataka, the Court made the following observations: (SCC 9.719, para 2)

> *"2....The ratio decidendi of a judgment has to be found out only on reading the entire judgment. In fact, the ratio of the judgment is what is set out in the judgment itself. The answer to the*

question would necessarily have to be read in the context of what is set out in the judgment and not in isolation. In case of any doubt as regards any observations, reasons and principles, the other part of the judgment has to be looked into. By reading a line here and there from the judgment, one cannot find out the entire ratio decidendi of the judgment."

b) In the case of ***State of Gujarat and others Vs. Utility Users' Welfare Association and others*** reported in ***2018 (6) SCC 21***. The relevant portions are extracted hereunder.

111. The judgment of this Court in TANGEDGO Ltd. would first have to be dealt with at some length, as it deals with the provisions of the very Act. Of course, the context was, inter alia, in respect of the interpretation of Section 86(1) of the said Act. The Bench took note of the Gujarat Urja Vikas Nigam Ltd. (GJ-I) on account of the observations made in that judgment, that the State Commission can adjudicate all the disputes, including the dispute on money claims between the licensees and the generating companies. The then counsel for the Appellant sought to canvas that the exercise of such judicial powers should be either by a civil court or a tribunal having, at least, one judicial member, as the absence of a judicial member would be an anathema to judicial process and would directly impinge on the impartiality and the independence of

the judiciary. It was also contended that the same would undermine the principle of separation of powers which was sought to be strictly maintained by the Constitution of India. The counsel, in fact, went further that the function of the Chairman of such a commission required only a retired Judge of the High Court to occupy that post, an aspect, which has been negated by us hereinbefore. The Supreme Court gave its imprimatur to the submission advanced on behalf of the Appellant to the extent that the adjudicatory functions generally ought not to be conducted by the State Commission in the absence of judicial members. It was noticed that no judicial member had been appointed in the Tamil Nadu State Commission, and that the feasibility for making the appointment of a person as the Chairman from amongst persons, who is, or has been, a Judge of the High Court should be explored.

112. It is undoubtedly true that the question which the Court was seized of, related to the interpretation of Section 86 of the said Act and certain other matters, which are not connected with the controversy herein. Thus, the issue arises, whether the observations made, albeit to be construed as advisory or suggestive qua the appointment of a Chairman and a Member are to be treated as ratio decidendi or obiter dicta.

113. In order to determine this aspect, one of the well-established tests is "The Inversion Test" propounded

inter alia by Eugene Wambaugh, a Professor at The Harvard Law School, who published a classic text book called "The Study of Cases" in the year 1892. This text book propounded inter alia what is known as the "Wambaugh Test" or "The Inversion Test" as the means of judicial interpretation. "The Inversion Test" is used to identify the ratio decidendi in any judgment. The central idea, in the words of Professor Wambaugh, is as under:

> *"In order to make the test, let him first frame carefully the supposed proposition of law. Let him then insert in the proposition a word reversing its meaning. Let him then inquire whether, if the court had conceived this new proposition to be good, and had had it in mind, the decision could have been the same. If the answer be affirmative, then, however excellent the original proposition may be, the case is not a precedent for that proposition, but if the answer be negative the case is a precedent for the original proposition and possibly for other propositions also.*

114. In order to test whether a particular proposition of law is to be treated as the ratio decidendi of the case, the proposition is to be inversed, i.e., to remove from the text of the judgment as if it did not exist. If the conclusion of the case would still have been the same even without examining the proposition, then it cannot be regarded as the ratio decidendi of the case. This test

has been followed to imply that the ratio decidendi is what is absolutely necessary for the decision of the case. "In order that an opinion may have the weight of a precedent", according to John Chipman Grey, "it must be an opinion, the formation of which, is necessary for the decision of a particular case."

16.It is evident that while the subsequent Division Bench, which passed the order in W.A.(MD).No.336 of 2019 was dealing with this issue, a specific reference was made to the judgment of the earlier Division Bench in W.A.No.2395 of 2003 at para 14 of the Judgment. The subsequent Division Bench also took note of various other judgments that were rendered on the same lines and ultimately at paragraph 21 of the judgment, it was held as follows:

"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."

17.It is clear from the above that the limitation prescribed under the Act will not stand attracted insofar as an order or decree passed by a competent

court is concerned. This judgment has also been subsequently followed in the latest judgment by a Division Bench in W.A.(MD)No.902 of 2021, dated 26.04.2021. Therefore, this ratio has been consistently followed till date.

18.This court does not find any contradiction in the subsequent judgment rendered in W.A.(MD)No.336 of 2019 with the earlier view of the Hon'ble Division Bench in W.A.No.2395 of 2003.

19.It will be relevant to take note of the Judgment of the Division Bench of this Court and also the Judgment of the Andhra Pradesh High Court for the preposition that where a later Bench considers the decision of an earlier Bench and passes a judgment, the later decision will bind a single Judge.

a) In the case of ***P.Murugan Vs. Debts Recovery Appellate Tribunal*** reported in ***2017 SCC online Madras 4187.*** The relevant portions are extracted hereunder.

> *"52.Yet another reason, as to why, we are not inclined to accept the contention of the learned counsel for the petitioner is that when there are two decisions, on the point of law, the judgment rendered at a later point of time, proximate and which has considered the decisions of the Hon'ble Apex Court, will prevail over the former. Reference can be made to few decisions,*
>
> *(i)In D.V. Lakshmana Rao v. State of Karnataka reported in 2001 (4) KAR.L.J. 185, the*

Karantaka High Court has held thus:

"It is now well-settled that if there are two conflicting judgments of the Supreme Court, of Benches with equal number of Judges, then the latter will prevail over the earlier. But where the earlier judgment is of a larger Bench and the latter judgment is of a smaller Bench, then the decision of the larger Bench will be binding….. When there is divergence between decisions of two co-ordinate Benches of the Supreme Court, the latter decision should prevail. The exception arises where the first decision specifically considers a particular question and lays down the principles relating to the question and the subsequent decision, without noticing the earlier decision or the principles laid down therein, and without examining the question, renders an assumptive decision. In such a situation, the earlier decision which considered the question and lays down the principle will apply."

(ii) A Full Bench of this Court in R. Rama Subbarayalu Reddiar v. Rengammal (AIR 1962 Madras 45) has examined the question with regard to High Court decisions. At Paragraph 4 of the judgment, this Court held that,

"4. Before we deal with the question, involved in the appeal, it is necessary to examine the propriety of the procedure adopted by the learned District Judge, The normal rule as to the precedents is that Subordinate Courts are bound in the absence of any decision of the

Supreme Court to follow the decision of the High Court to which they are subordinate. Where, however, there is a conflict between two decisions of the High Court, the rule to be adopted is as follows: where the conflict is between the judgment of a Single Judge and a Bench or between a Bench and a Larger Bench, the decision of the Bench or Larger Bench as the case may be, will have to be followed. But where the conflict is between two decisions both pronounced by a Bench consisting of the same number of Judges and the subordinate Court after a careful examination of the decision came to the conclusion that both of them directly apply to the case before it, it will then be at liberty to follow that decision which seems to it more correct, whether such decision be the later or the earlier one."

(iii) A Full Bench decision of Allahabad High Court in U.P. State Road Transport Corporation v. State Transport Appellate Tribunal, U.P., Lucknow (AIR 1977 Allahabad 1), held that,

"12. It is noteworthy that the Supreme Court's decision in Mysore State Transport Corporation is later in time. Even if there is some conflict in the two Supreme Court decisions, we have to follow the law as declared in the later case of Mysore State Transport Corporation."

(iv) In Vasant Tatoba Hargude v. Dikkaya Muttaya Pujari (AIR 1980 Bom. 341), it is held that in case of conflict between earlier and later decisions of Supreme Court, each consisting of equal number of Judges,

later decision prevails. A Full Bench of Karnataka High Court (Five Judge Bench) in Govindanaik G. Kalaghatigi v. West Patent Press Company Limited (AIR 1980 Karnataka 92), at Paragraph 5, held that-

"If two decisions of the Supreme Court on a question of law can not be reconciled and one of them is by a Larger Bench while the other is by a Smaller Bench, it is earlier or later in point of time, should be followed by High Courts and other Courts. However, if both such Benches of the Supreme Court consist of equal number of Judges, the later of the two decisions should be followed by High Courts and other Court."

b) In the case of ***B.Eswaraiah Vs. Labour Court I*** reported in ***2014 SCC Online AP 386***. The relevant portions are extracted hereunder.

"8. Having considered the matter with broader dimensions, we find that various High Courts have given different opinion on the question involved. Some hold that in case of conflict between two judgments on a point of law, later decision should be followed; while others say that the Court should follow the decision which is correct and accurate whether it is earlier or later. There are High Courts which hold that decision of earlier Bench is binding because of the theory of binding precedent and Article 141 of the Constitution of India. There are also decisions which

hold that single Judge differing from another single Judge decision should refer the case to Larger Bench, otherwise he is bound by it. Decisions which are rendered without considering the decisions expressing contrary view have no value as a precedent. But in our considered opinion, the position may be stated thus with regard to the High Court, a single Bench is bound by the decision of another single Bench. In case, he does not agree with the view of the other single Bench, he should refer the matter to the Larger Bench. Similarly, Division Bench is bound by the judgment of earlier Division Bench. In case, it does not agree with the view of the earlier Division Bench, it should refer the matter to Larger Bench. In case of conflict between judgments of two Division Benches of equal strength, the decision of earlier Division Bench shall be followed except when it is explained by the latter Division Bench in which case the decision of latter Division Bench shall be binding. The decision of Larger Bench is binding on smaller Benches.

In case of conflict between two decisions of the Apex Court, Benches comprising of equal number of Judges, decision of earlier Bench is binding unless explained by the latter Bench of equal strength, in which case the later decision is binding. Decision of a Larger Bench is binding on smaller Benches. Therefore, the decision of earlier Division Bench, unless distinguished by latter Division Bench, is binding on the High Courts and the

Subordinate Courts.

Similarly, in presence of Division Bench decisions and Larger Bench decisions, the decisions of Larger Bench are binding on the High Courts and the subordinate Courts. No decision of Apex Court has been brought to our notice which holds that in case of conflict between the two decisions by equal number of Judges, the later decision is binding in all circumstances, or the High Courts and subordinate Courts can follow any decision which is found correct and accurate to the case under consideration. High Courts and Subordinate Courts should lack competence to interpret decisions of Apex Court since that would not only defeat what is envisaged under Article 141 of the Constitution of India but also militate hierarchical supremacy of Courts. The common thread which runs through various decisions of Apex Court seems to be that great value has to be attached to precedent which has taken the shape of rule being followed by it for the purpose of consistency and exactness in decisions of Court, unless the Court can clearly distinguish the decision put up as a precedent or is per incuriam, having been rendered without noticing some earlier precedents with which the Court agrees. Full Bench decision in Balveer Singhs case (AIR 2001 Madh Pra 268) (supra) which holds that if there is conflict of views between the two co-equal Benches of the Apex Court, the High Court has to follow the judgment which appears to it to state

the law more elaborately and more accurately and in conformity with the scheme of the Act, in our considered opinion, for reasons recorded in the preceding paragraph of this judgment, does not lay down the correct law as to application of precedent and is, therefore, over ruled on this point.
(emphasis added)
In my considered opinion, the position would be this:
When the subsequent co-equal bench renders the judgment in ignorance of the earlier pronouncement of co-equal bench, the judgement of the previous bench will have binding effect. On the other hand, if the latter bench refers to the earlier one and distinguishes it, to that extent of distinction, the latter one binds.
A learned Division Bench of this Court in S.K. Mahaboob Ali, Ex-CRPF Constable, Nandyal v. Director General of Police, Central Reserve Police Force, New Delhi, has held:"

20.As a single Judge, I am bound by the judgment of the Division Bench. Therefore, this Court does not find any requirement for referring the matter to a larger Bench in view of a clear statement of law consistently pronounced by two Division Benches.

21.In view of the settled law, the Sub Registrar cannot refuse to

register any order or decree only on the ground that the same has been presented beyond the period of limitation provided under Section 23 of the Act. Hence, the Sub Registrar shall entertain the certified copy of the decree that is presented by the petitioners and shall register the same.

22.Insofar as the next issue regarding the registration fee that has to be levied, the law is no longer *res-integra* and this Court in the case of *K.Krishnan* referred supra has categorically held that the registration fees should be levied only on the total value of the suit and not on the value of the property. Therefore, the respondent cannot insist for the payment of the registration fees based on the value of the property.

23.In view of the above discussion, all these writ petitions are disposed of with a direction to the respondents to register the certified copy of the decree that is presented for registration by the petitioners and the registration fee shall be levied only on the total value of the suit. It is also made clear that no stamp duty is leviable while registering any order or decree. No costs.

25.06.2021

Internet : Yes/No
Index : Yes/No
TM

NOTE:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Inspector General of Registration,
No.100, Santhome High Road,
Foreshore Estate,
Pattinapakkam,
Chennai – 600 028.

2.The Joint Sub Registrar No.I,
Madurai North,
Integrated Complex of Registration Department,
TNAU Nagar,
Rajakampeeram,
Y.Othakadai,
Madurai – 625 107.

3.The Government of Tamil Nadu,
represented through the Secretary to Government,
Commercial Taxes and Registration Department,
Fort St. George, Chennai.

4.The District Registrar,
Registration Department,
District Collectorate Office,
Karur.

5.The Sub Registrar,
Mela Karur Registrar Office,
Hospital Road,
Karur.

N.ANAND VENKATESH, J.

TM

Order made in

W.P.(MD).Nos.8091, 8093 & 9446 of 2020

25.06.2021