

(2015) 09 BOM CK 0227

In the Bombay High Court

Case No : Writ Petition (L) No. 2501 of 2015 and Chamber Summons No. 283 of 2015 in Writ Petition (L) No. 2501 of 2015

Tardeo Properties Private Ltd. and Others

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

Date of Decision : 28-09-2015

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Limitation Act, 1963 — Section 15
Registration Act, 1908 — Section 17, 18, 19, 2, 20
Stamp Act, 1899 — Section 2(g)

Citation : (2015) 09 BOM CK 0227

Hon'ble Judges : S.C. Dharmadhikari and B.P. Colabawalla, JJ.

Bench : Division Bench

Advocate : A.A. Kumbhakoni, Senior Counsel, Shardul Singh, H.N. Vakil and Vipul Bilve i/b Mulla and Mulla and Craigie Blunt and Caroe, for the Appellant; D.A. Nalawade, Govt. Pleader, for the Respondent

Final Decision : Allowed

Judgement

S.C. Dharmadhikari, J.—This matter was heard earlier and we had placed it today for dictating judgment.

2. After having heard both sides, we proceed to grant Rule on this Writ Petition. The Respondents waive service. By consent of both sides, Rule is made returnable forthwith.

3. By this Petition under Article 226 of the Constitution of India, the Petitioners seek a direction to the 2nd Respondent to forthwith comply with the requisition contained in this Court's letters dated 23rd October, 2013 and 4th August, 2015 and admit a consent decree for registration, register the same as a conveyance of immovable property by completing all the formalities in that regard within the time prescribed by this Court. The Petition has been presented on 24th August, 2015 and in other words seeks a Writ of mandamus or any other appropriate

Writ, order or direction in the above mentioned nature.

4. Together with the Writ Petition, we have, on Board Chamber Summons No. 283 of 2015 which is moved by one Sonawala Company Private Limited. We shall come to this Chamber Summons and the prayers therein little later.

5. The 1st Petitioner before us is a Private Limited Company incorporated under the Indian Companies Act, 1956. The 2nd Petitioner is its Managing Director. The 1st Respondent is the State of Maharashtra and the 2nd Respondent is the Sub-Registrar of Assurances an office established by the 1st Respondent State under the provisions of the Registration Act, 1908. The 2nd Respondent is exercising powers and discharging the obligations and functions under the Registration Act including registration of documents presented.

6. There is a certain claim raised by the Petitioners on the basis of an Agreement for Sale dated 10th April, 1980. From paragraph 4, together with its sub-clauses, it is stated that on the basis of this Agreement for Sale and which relates to an immovable property, more particularly described in the Consent Decree as also a Suit being Suit No. 2948 of 1984, which was disposed off by this Court on 16th January, 1985 by a Consent Decree. We are not concerned with the merits of the claim for specific performance in the suit filed by the Petitioners or the stand of the vendor M/s. Sonawala Company Private Limited simply because both sides do not dispute that a consent order was passed by this Court and a Decree was directed to be drawn up. The Registry of this Court drew up this Decree on 27th February, 1985. It is claimed by the Petitioners that the Consent Decree was directed to operate as a conveyance of the said property. Annexure A is a copy of this Consent Decree and thereafter the Petitioners state that there was a doubt as to whether the Bombay Stamp Act, 1958 would cover an instrument such as a Consent Decree and which was directed to operate as a conveyance. There was some doubt and only when the State Legislature passed an Act called Maharashtra Act 27 of 1985 that with effect from 10th December, 1985 the Consent Decrees were brought within the purview of Section 2(g) of the Stamp Act. Since, the doubt was not resolved and there was a challenge to the act of the State Legislature that the present Consent Decree was not sent to the Superintendent of Stamps for adjudication of the stamp duty. That is why, the registration was pending. The Petitioners have averred that they were under a bonafide impression that once the Consent Decree was drawn up, nothing further was required to be done in order to perfect their title over the property. They did not hear anything from their advocates either. However, when the Parliament enacted the Companies Act, 2013 amending the original Act of 1956 that the Petitioners thought of seeking legal advice particularly in relation to certain obligations which are required to be complied with in terms of the amendment to the Companies Act. The Petitioners learnt that their then Solicitor had passed away and his office did not have any record of the matter. The Petitioners then took search of the suit proceedings in this Court. They, thereafter, engaged another set of advocates and who applied to the Prothonotary and Senior Master

to give them inspection of the record of the Suit. That is how, in the month of August 2013, the Petitioners learnt that this Consent Decree was not forwarded by the Registry of this Court to the Sub-Registrar of Assurances for registration. The Petitioners, then, obtained a certified copy of this Consent Decree. They also moved the Prothonotary and Senior Master and who eventually, by his letter dated 15th October, 2013 forwarded the Consent Decree to the 2nd Respondent for the purpose of registration. Annexures-B and C to this Writ Petition are copies of the letters to the above effect. It is common ground that this Consent Decree is required to be stamped. For stamping, there has to be an adjudication in relation to the stamp duty required to be paid on such Consent Decree. If it was deemed to act as conveyance of title in relation to a immovable property, then, the Superintendent of Stamp was to compute and calculate the stamp duty. The Superintendent of Stamps took some time in adjudicating the stamp duty and it is only on 27th July, 2015 that he made an adjudication order requiring the Petitioners to pay Rs. 25,83,800/- towards stamp duty and imposed maximum penalty to the extent of 400%. Thus, the total figure of Rs. 1,29,19,000/- was required to be paid and which was duly paid. Annexures F-1 and F-2 are these documents based on which the Petitioners have made the averments at page 6 of the Writ Petition. It is thereupon, the Petitioners intimated to the Prothonotary and Senior Master by letter dated 30th July, 2015 through their advocates that the stamp duty adjudicated, had been paid and now he should take prompt steps to have the document registered. It is in pursuance of this development that on 4th August, 2015 the Prothonotary was pleased to address a letter to the Sub-Registrar Assurances requesting him to register the document.

7. The Registrar has not taken requisite steps and it is his inaction which has led the Petitioners to file the instant Writ Petition.

8. Mr. Kumbhakoni, learned Senior Counsel appearing for the Petitioners would submit that Section 23 of the Registration Act, 1908 falling in Chapter IV deals with time of presentation. Mr. Kumbhakoni submits that the proviso to Section 23 states that a copy of a decree or order may be presented within four months from the day on which the decree or order was made, or, where it is appealable, within four months from the day on which it becomes final. By Section 23-A , re-registration of certain documents is permissible. By Section 24 the documents executed by several persons at different times may be presented for registration and re-registration within four months from the date of its execution. Mr. Kumbhakoni places reliance on Section 25 to submit that the Registrar, in cases where the delay in presentation does not exceed four months, may direct that, on payment of a fine not exceeding ten times the amount of the proper registration fee, such document shall be accepted for registration. Mr. Kumbhakoni has relied upon a judgment of this Court and urged that this period and prescribed by Section 25 is not sacrosanct. There is nothing mandatory about it in the sense that the delay beyond the period specified therein is incapable of being condoned. Mr. Kumbhakoni would, therefore, submit that the Petitioners were bonafide pursuing the matter. There is no deliberate or

intentional act much less gross negligence which can be attributed to them and for the reasons set out in the Petition. In the circumstances, this Writ Petition be allowed. He would submit that the copies of the judgments of this Court have been annexed to this Petition and in that regard the reliance is placed from pages 58 to 84 to the paper book.

9. On the other hand, Mr. Nalawade, appearing for the State would submit that there is no inaction nor is the Registrar under a legal obligation to register the document and when there is a gross and unexplained delay beyond the specified period. He would submit that for issuance of a writ of mandamus, the Petitioners must establish a legal right. There is no legal right and neither the Petitioner can insist on registration being granted belatedly nor can they approach this Court when they are at fault. Mr. Nalawade submits that from 27th February, 1985 till 29th August, 2013, which is the first time on which the Petitioners moved, there is a gross delay. They have failed to submit any explanation for the deliberate inaction on their part. The Petitioners cannot rely upon any amendment to the Companies Act as that is a development of 2013. The controversy about the Consent Decree attracting stamp duty was concluded way back by the Division Bench Judgment of this Court delivered in 1992. In the circumstances, the Petitioners have slept over the matter and they should not be assisted by this Court in its writ jurisdiction. The Petition, therefore, be dismissed.

10. Mr. Singh, learned counsel appearing for the Applicant in support of the Chamber Summons relied upon a judgment of the Division Bench of the Allahabad High Court delivered in Civil Writ Petition No. 24121 of 2010 on 20th May, 2010, a copy of which is annexed to the affidavit in support of the Chamber Summons. Mr. Singh also brings to our notice the fact that there are proceedings pending in this Court challenging the Consent Decree. In that regard, Suit No. 5187 of 1985 is being relied upon. It is submitted that the Petitioners' rights, if any, under the decree have been challenged and so long as this challenge is pending, this Court should not pass any orders in terms of the prayers of this Writ Petition. That would seriously affect and prejudice the cause of the Applicants. He also submits that the Applicants be joined as a party Respondent and the Writ Petition be dismissed.

11. After having heard both sides, we find that as far as part IV of the Registration Act, 1908 is concerned, there are several provisions and setting out a time for presentation. That these sections are inserted with a avowed object. The Registration Act is an Act to consolidate the enactments relating to registration of the documents. The Act initially made only consolidated several enactments relating to registration of documents. The amendments thereto and later on are with a object and purpose and to enable the registration of documents executed within India and outside India. Thereafter, there are extensive amendments and pertaining to registration of power of attorneys. The Part I contains Section 2 and which refers to several definitions. In the present case, the definitions need not be referred to. In Part II of the Act, the various

authorities for registration have been set out and part III refers to registrable documents. The documents which are to be compulsorily registered are referred to in subsection(1) of Section 17 and documents of which registration is optional are referred in Section 18 . Thereafter, documents in language not understood by Registering Officer is a matter covered by Section 19 and Sections 20 , 21 and 22 are not relevant for our purpose. In part IV Section 23 falls and which reads as under:-

"23. Time for presenting documents

Subject to the provisions contained in sections 24 , 25 and 26 , no document other than a will shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution:

PROVIDED that a copy of a decree or order may be presented within four months from the date on which the decree or order was made or, where it is appealable, within four months from the day on which it becomes final.

23A. Re-registration of certain documents :

Notwithstanding anything to the contrary contained in this Act, if in any case a document requiring registration has been accepted for registration by a Registrar or Sub-Registrar from a person not duly empowered to present the same, and has been registered, any person claiming under such document may, within four months from his first becoming aware that the registration of such document is invalid, present such document or cause the same to be presented, in accordance with the provisions of Part VI for re-registration in the office of the Registrar of the district in which the document was originally registered; and upon the Registrar being satisfied that the document was so accepted for registration from a person not duly empowered to present the same, he shall proceed to the re-registration of the document as if it has not been previously registered, and as if such presentation for re-registration was a presentation for registration made within the time allowed therefor under Part IV, and all the provisions of this Act, as to registration of documents, shall apply to such re-registration; and such document, if duly re-registered in accordance with the provisions of this section, shall be deemed to have been duly registered for all purposes from the date of its original registration:

PROVIDED that, within three months from the twelfth day of September, 1917, any person claiming under a document to which this section applies may present the same or cause the same to be presented for re-registration in accordance with this section, whatever may have been the time when he first became aware that the registration of the document was invalid.]

12. Upon a perusal of the same, it is clear that the presentation of the documents within four months of the date of its execution is contemplated and by the proviso, the matter pertaining to a decree or order and its presentation within four months from the day on which that was made or if it is appealable

within four months from the day on which it becomes final.

13. The two or three judgments of this Court firstly rendered by two Single Judges and thereafter by a Division Bench came to be considered recently in a Division Bench judgment of this Court to which one of us (S.C. Dharmadhikari, J.) was a party in Writ Petition No. 1480 of 2013 decided on 24th June, 2015 (Nestor Builders and Developers Pvt. Ltd. and Another v/s State of Maharashtra and Others). This Court after referring to these very provisions, in paragraphs 9 and 10, concluded as under:-

To examine the issue, it would be appropriate to examine the relevant provisions namely Section 23 , 23A , 25 and 26 of the Registration Act, 1908 which read thus:-

"23. Time for presenting documents

Subject to the provisions contained in sections 24 , 25 and 26 , no document other than a will shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution:

PROVIDED that a copy of a decree or order may be presented within four months from the date on which the decree or order was made or, where it is appealable, within four months from the day on which it becomes final.

23A. Re-registration of certain documents :

Notwithstanding anything to the contrary contained in this Act, if in any case a document requiring registration has been accepted for registration by a Registrar or Sub-Registrar from a person not duly empowered to present the same, and has been registered, any person claiming under such document may, within four months from his first becoming aware that the registration of such document is invalid, present such document or cause the same to be presented, in accordance with the provisions of Part VI for re-registration in the office of the Registrar of the district in which the document was originally registered; and upon the Registrar being satisfied that the document was so accepted for registration from a person not duly empowered to present the same, he shall proceed to the re-registration of the document as if it has not been previously registered, and as if such presentation for re-registration was a presentation for registration made within the time allowed therefor under Part IV, and all the provisions of this Act, as to registration of documents, shall apply to such re-registration; and such document, if duly re-registered in accordance with the provisions of this section, shall be deemed to have been duly registered for all purposes from the date of its original registration:

PROVIDED that, within three months from the twelfth day of September, 1917, any person claiming under a document to which this section applies may present the same or cause the same to be presented for re-registration in accordance with this section, whatever may have been the time when he first became aware that the registration of the document was invalid.]

25. Provision where delay in presentation is unavoidable :- (1) if, owing to urgent necessity or unavoidable accident, any document executed, or copy of a decree or order made, in (India) is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registrar, in cases where the delay in presentation does not exceed four months, may direct that, on payment of a fine not exceeding ten times the amount of the proper registration fee, such document shall be accepted for registration.

(2) Any application for such direction may be lodged with a Sub Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

26. Documents executed out of (India) - When a document purporting to have been executed by all or any of the parties out of (India) is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the registering officer, if satisfied-

(a) that the instrument was so executed, and

(b) that it has been presented for registration within four months after its arrival in (India), may, on payment of the proper registration fee, accept such document for registration."

(emphasis supplied)

A cumulative reading of the aforesaid provisions and more particularly the provisions of Section 25 of the Registration Act, clearly demonstrate the intention of the legislature that if a document in a given situation cannot be presented for registration within the period of four months prescribed under Section 23 of the Registration Act then it can still be accepted for registration beyond the prescribed period. However, this would necessarily be when the delay on the part of the party presenting the document beyond the prescribed period was bonafide and not intentional and was on account of a genuine cause beyond the control of such a party.

10. A legal right accrued to the petitioners to get the document registered as per the provisions of the Registration Act cannot stand defeated when such reasons exist which are beyond the control of the party presenting the document for registration. The legal position in this regard has been succinctly enunciated in the decision of the Supreme Court in the case *Raj Kumar Dey and Others Vs. Tarapada Dey and Others*, ". This decision concerned registration of an Award dated 28 November 1977. In the proceedings adopted by the parties under the Arbitration Act, 1940, the Award had remained in the custody of the Court. An application was made by the Arbitrators before the learned Sub-Judge to return back the Award to enable them to present the same before the Sub Registrar of registration. An order came to be passed in January, 1980 on the said application whereby the learned Sub-Judge ordered return of the Award to the Arbitrators to enable them to present it for registration. This order of the learned Sub-Judge was set aside by the High of Calcutta by order dated on 6 March 1981 and it was

held that during the subsistence of the interim injunction, the Arbitrators could not have taken back the Award for presenting the same for registration. In further proceedings on 24 November 1983 the Arbitrators got back the Award from the Court and on the next day i.e. on 25 November 1983 the Arbitrators presented the Award before the Sub-Registrar who registered the Award on 25 November 1983. By order dated 19 June 1986 the High Court quashed the registration under Article 227 of the Constitution holding that the Award has been presented for registration beyond time. In considering the challenge to this order of the High Court, the Supreme Court while holding that the delay from the period 20 November 1977 to 25 November 1983 (about 6 years) was rightly excluded by the Sub-Registrar. In Paragraphs 6 and 7 the Supreme Court has observed thus:-

"6. We have to bear in mind two maxims of equity which are well settled, namely, "ACTUS CURIAE NEMINEM GRAVABIT" An act of the Court shall prejudice no man. In Broom's Legal Maxims. 10th edition, 1939 at page 73 this maxim is explained that this maxim was founded upon justice and good sense; and afforded a safe and certain guide for the administration of the law. The above maxim should, however, be applied with caution. The other maxim is "LEX NON COGIT AD IMPOSSIBILIA" (Broom's Legal MaximsP. 162)The law does not compel a man to do that which he cannot possibly perform. The law itself and the administration of it, said Sir W. Scott, with reference to an alleged infraction of the revenue laws, must yield to that to which everything must bend, to necessity; the law, in its most positive and peremptory injunctions, is understood to disclaim, as it does in its general aphorisms, all intention of compelling impossibilities, and the administration of laws must adopt that general exception in the consideration of all particular cases.

7. In this case indisputably during the period from 26th of July, 1978 to 20th December, 1982 there was subsisting injunction preventing the arbitrators from taking any steps. Furthermore, as noted before the award was in the custody of the court, that is to say, 28th of January, 1978 till the return of the award to the arbitrators on 24th of November, 1983, the arbitrators or the parties could not have presented the award for its registration during that time. The award as we have noted before was made on 28th of November, 1977 and before the expiry of the four months from 28th November, 1977, the award was filed in the court pursuant to the order of the court. It was argued that the order made by the court directing the arbitrators to keep the award in the custody of the court was wrong and without jurisdiction, but no arbitrator could be compelled to disobey the order of the court and if in compliance or obedience with court of doubtful jurisdiction, he could not take back the award from the custody of the court to take any further steps for its registration then it cannot be said that he has failed to get the award registered as the law required. The aforesaid two legal maxims-the law does not compel a man to do that which he cannot possibly perform and an act of the Court shall prejudice no man would, apply with full vigour in the facts of this case and if that is the position then the award as we have noted

before was presented before the Sub-Registrar, Arambagh on 25th November, 1983 the very next one day of getting possession of the award from the court. The Sub-Registrar pursuant to the order of the High Court on 24th of June, 1985 found that the award was presented within time as the period during which the judicial proceedings were pending that is to say, from 28th of January, 1978 to 24th of November, 1983 should be excluded in view of the principle laid down in section 15 of the Limitation Act, 1963. The High Court, therefore, in our opinion, was wrong in holding that the only period which should be excluded was from 26th July, 1978 till 20th December, 1982. We are unable to accept this position. 26th July, 1978 was the date of the order of the learned Munsif directing maintenance of status quo and 20th of December, 1982 was the date when the interim injunction was vacated, but still the award was in the custody of the court and there is ample evidence as it would appear from the narration of events hereinbefore made that the arbitrators had tried to obtain the custody of the award which the court declined to give to them. ...

... .. " (emphasis supplied)

In the facts of the present case the delay was purely attributable to the Collector of Stamps in passing a final adjudication order under Section 31 of the Maharashtra Stamps Act on 18 February 2013. This delay on the part of the Collector of Stamps cannot be held to be detrimental to the petitioners who were not at fault and who were diligently pursuing the proceedings before the Collector of Stamps as observed above. The action of the respondents not to exclude the period taken by the Collector of Stamps in adjudication of the documents for the purpose of determination of the stamp duty would entail serious consequences, defeating the rights of the petitioners to get the document registered for no fault on their part. This certainly cannot be said to be the intention of the Legislature. In the decision of the learned Single Judge of this Court (Coram: R.M. Savant, J.) in Writ Petition No. 2662 of 2012 relied on behalf of the petitioners, the learned Single Judge after taking into consideration the provisions of the Registration Act has held that it would be appropriate to exclude the time taken by the authority to adjudicate the stamp duty payable on the document sought to be registered. The reliance of the petitioners on this decision is appropriate. In the circumstances, a bonafide delay beyond the control of the petitioners as caused in the present case which cannot be attributed to any intentional or a deliberate act or negligence on the part of the petitioners, would be required to be excluded in permitting the petitioners to avail registration of a document in question. A similar view has been taken by this Court by one of us (G.S. Kulkarni, J.) in Writ Petition No. 903 of 2014 decided on 26 June 2014 (Chhabildas Dalichand Bhayani Vs. The Sub-Registrar of Mumbai & Anr.) and which follows the Judgment of R.M. Savant, J.

14. In that case, the Division Bench found that if there is a certain act attributable to the Collector of Stamps and who did not pass a final adjudication order, then, the delay in presenting the document for registration, which attracts

stamp duty, should not visit the parties with serious consequences. That is certainly not the intention of the Legislature. However, Mr. Nalawade has sought to distinguish this position by submitting that in the present case there is a deliberate and intentional act and the Division Bench itself has clarified that if such is the factual situation, then, the Court should not assist the litigants like the Petitioners.

15. We are unable to agree with him for more than one reason. In the affidavit in reply filed on behalf of the State the factual position as narrated by the Petitioners in the Writ Petition and particularly sub-paras of paragraphs referred above, has not been denied or disputed. It is apparent that the date of the decree passed by this Court was not the relevant date. The Consent Decree had to be drawn up in terms of the order passed by this Court. The drawing up of that Decree and its eventual forwarding by the Registry of this Court to the Superintendent of Stamps, if it requires payment of stamp duty and its adjudication is something over which the Petitioners can have no control. It is undisputed that the Consent Decree and drawn up by the Registry of this Court remained with the Registry. The Registry had not forwarded it even after the legal position in regard to its attracting stamp duty, was clarified by this Court. The Registry also did not act immediately thereafter because the Petitioners or their solicitors were unaware of the same being not presented or forwarded to the Registrar of Sub-assurances. The earlier advocate of the Petitioners might or might not have taken any steps but there is no record in relation thereto, as well. He had expired and it is only when the Petitioners realized that they have to comply with certain other legal requirements emerging from the amendments to the Companies Act, 1956 and in 2013 that they moved the Prothonotary and Senior Master of this Court. The Prothonotary and Senior Master then realized that the document remained to be forwarded. It is in these circumstances that the delay had taken place and which is duly and properly explained. It has to be also borne in mind that when the Prothonotary and Senior Master has forwarded the Consent Decree to the Superintendent of Stamps as well as the 2nd Respondent had processed the same for stamping and registration only in the month of October 2013, till 27th July, 2015 the adjudication was not concluded. It is only upon the conclusion of the adjudication that the stamp duty payable was determined. That was duly paid and the Petitioners promptly requested the Prothonotary and Senior Master to follow up the matter with the Sub-Registrar of Assurances. It is thereafter that the correspondence was carried out post adjudication and payment of stamp duty. All these developments cannot be ignored and merely because the Consent Decree has been passed way back in 1985, the Respondent No. 2 can not refuse to register it. We are of the opinion that the stand taken by the Sub-Registrar in the affidavit, does not enable us to conclude that there is a gross negligence or that there is a deliberate or intentional act attributable to the Petitioners by which they are disentitled to any equitable or discretionary relief. Once the legal position is summarized in the Division Bench judgment and there is power in the Registrar to accept the

document by condoning the delay and thereafter proceed to register it, then, we do not see any legal impediment.

16. The reasons assigned for delay cannot be said to be suffering from any legal infirmity much less the explanation. It cannot be termed as lacking in bonafides or utterly false. If the position as emerging from the correspondence and undisputed retention of the Consent Decree in the Registry of this Court from 1985 till 2013, then, that is ground enough to issue the writ as prayed.

17. We are only left with the application of the Applicants. Mr. Singh appearing for the Applicants in support would not dispute the legal position that mere registration of this document or the Consent Decree by itself will not put an end to any legal rights of the Applicant. No legal proceedings, much less a comprehensive Suit, as filed in this Court to challenge the Consent Decree can come to an end merely because of any writ, order and direction in this Petition. This Court has not adjudicated any legal right much less forming part of the pleadings and the controversy in the Suit. The Petitioners cannot acquire such indefeasible right as is projected by Mr. Singh and which would non suit the Applicants. Their independent proceedings can proceed on their own merits and in accordance with law. We do not see how by mere presence of the Applicants, we can deny any relief to the Petitioners who have sought a writ essentially against the State and the authority under the Registration Act, 1908. Therefore, by clarifying that this order and direction will not in any manner influence the outcome of the pending suit nor the legal rights and contentions of the parties, particularly of Applicants, we would grant the equitable relief.

18. The Division Bench of the Allahabad High Court was considering a compromise decree passed prior to 22nd November 2006 but photo copy of this compromise decree was placed before the Sub-Registrar and the Petitioners desired that the compromise Decree should be registered. This representation was not accepted nor any steps taken for registration of the decree which led to the Writ Petition.

19. The argument before the Allahabad High Court was that the registration of the compromise decree was optional under Section 18 of the Registration Act, 1908. Hence the provision prescribing time for presenting documents for registration as contained in Section 23 , is not applicable.

20. It is this argument which is dealt with and specifically rejected. The Allahabad High Court held that the argument has no legal basis because even if the registration is optional, the time for registration provided in Section 23 cannot be dispensed with simply because the registration of document is optional and not compulsory. This ratio of the Division Bench judgment is of no assistance in resolving the issue before us.

21. In view of the above discussion, we are of the opinion that the legal issues stand concluded by the Division Bench judgment of this Court, nothing contrary thereto is brought to our notice. We allow this Writ Petition. The Rule is made

absolute in terms of prayer clause (a).

22. The 2nd Respondent shall, now, take the requisite steps in accordance with law for registration of this Consent Decree and as expeditiously as possible. He shall endeavour to complete the process and issue the requisite certificate or endorsement within a period of four weeks from today. No costs.

23. In view of the disposal of the Writ Petition, nothing survives in the above Chamber Summons. The same is also disposed of as such.