

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.03.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

WP.No.4535 of 2015

and

MP.No.1/2015

Lakshmi Ammal

... Petitioner

Versus

1.The Sub-Registrar,  
Office of the Sub Registrar,  
Villivakkam,  
Chennai-600 049.

2.The Inspector General of Registration,  
Office of the Inspector General of Registration,  
Santhome,  
Chennai-600 049.

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified mandamus calling for the records relating to the order/check slip No.2 of 2015 dated 11.02.2015, issued by the first respondent and quash the same directing the first respondent to register the document namely the Deed of Settlement dated 04.02.2015, presented for registration in respect of petitioner undivided half share in the house, ground and premises bearing Door No.31, Vanniyar Street, Korattur, Chennai-600 080, comprised in Old S.No.916/2, T.S.No.77, Block No.62 of Korattur Village, Ambattur Taluk, measuring an extent of 938 sq.ft., executed by the petitioner Lakshmi Ammal in favour of her daughter K.Ramani and return the document to the petitioner after completing all the formalities of the registration.

For Petitioner

: Mr.R.Manickavel

For Respondents

: Mr.S.Gunasekaran,  
Government Advocate

## ORDER

By consent of the learned counsel on either side, the writ petition is taken up for final disposal.

2. Heard Mr.R.Manickavel, learned counsel appearing for the petitioner, Mr.S.Gunasekaran, Learned Government Advocate appearing on behalf of the respondents.

3. This petition has been filed for issuance of a writ of Mandamus, directing the first respondent to register the document namely the Deed of Settlement dated 04.02.2015, presented for registration in respect of petitioner's undivided half share in the house, ground and premises bearing Door No.31, Vanniyar Street, Korattur, Chennai-600 080 and return the document to the petitioner after completing all the formalities of the registration.

4. The case of the petitioner is that she being 79 years old, not in a very good health condition decided to settle her half undivided share in the property house, ground and premises bearing Door No.31, Vanniyar Street, Korattur, Chennai-600 080 under a Deed of Settlement. However, the Sub-Registrar of Registration refused to register the document on the ground that the petitioner has not produced the original document, namely, the sale deed dated 07.09.2011, registered as document No.4167 of 2011, on the file of the Sub-Registrar, Villivakkam. It is submitted that the original document is in the custody of the petitioner's other daughter Parimala and her husband Mr.Dilli Babu, who are refusing to produce the document, since they does not want the petitioner to settle as regards undivided share to other daughter K.Ramani. Therefore, the petitioner produced the certified copy of the sale deed, dated 07.09.2011, registered as document No.4167 of 2011 and explained the factual situation. Further, the petitioner also produced the encumbrance certificate from 1987 till date showing nil encumbrance. When the petitioner insisted upon a written order, the impugned order was passed by relying upon a circular issued by the Inspector General of Registration, dated 25.11.2012 and stated that since the petitioner did not produce the original sale deed, dated 07.09.2011, the settlement deed cannot be admitted for registration. Challenging the same, the present Writ Petition has been filed.

5. The issue involved in this Writ Petition is squarely covered by the decision of this Court in the case of R.Jayapaul vs. Sub-Registrar and Anr., in W.P.No.983 of 2013, dated 31.01.2013. In the said case also the document which was a release deed was refused to

be accepted for registration on the ground that the original parent deed was not produced and the Sub-Registrar relied upon the circular, dated 25.04.2012. The said Writ Petition was allowed by order, dated 31.01.2013. The operative portion of the order reads as follows:-

8. It is not in dispute that the petitioner being one of the co-sharers of the property in question, has approached the first respondent along with his mother and sisters for execution of a release deed in his favour by them. The first respondent refused to register the document on the ground that the original parental deed was not produced before him and that he has also cited the circular of the Inspector General of Registration dated 25.4.2012.

9. Now, the question that arises for consideration is, whether the first respondent can refuse to register the document on the ground that the original parental deed has not been produced before him. Section 71 of the Registration Act, 1998 (herein after called as the Act), contemplates that the Registrar can refuse to register the document giving reasons for refusal. Nowhere in the Registration Act, it contemplates that the Registrar can insist for production of the original parental document. When the Act does not contemplate so, the first respondent cannot insist the petitioner to produce the same. However, the first respondent seems to have relied on the circular of the Inspector General of Registration dated 25.4.2012, in and by which, the Inspector General of Registration has given several instructions to the Sub Registrar and one of the instruction is that he shall require the parties to produce the original parental documents. The circular can only be a guideline and it has no force in law. Unless otherwise such requirement is made under the Registration Act, the guideline alone, without any provisions in the Act, has any role to play. In fact, the said view was taken by this Court in the judgment reported in 2011-2-L.W.648 - K.S.Vijayendran vs. The Inspector General of Registration and another.

10. For the reasons stated above, I am of the considered view that the impugned order of the first respondent dated 5.9.2012 is liable to be set aside and accordingly, set aside and the writ petition stands allowed. The first respondent is directed to register the deed of release on presentation by the petitioner in

respect of the property in question. He is directed to register the document on the date of presentation without making the parties to run from pillar to post. He is also directed to do so on receipt of the order copy from this Court or on production of the same. No order as to costs. Consequently, connected miscellaneous petition is closed.

6. In the light of the above mentioned decision, which has considered an identical issue and also identical circular and granted relief, therefore the petitioner is also entitled to an identical relief.

7. Accordingly, the Writ Petition is allowed, the impugned order is set aside and the first respondent is directed to register the document presented by the petitioner in respect of the property in question. Further the first respondent is directed to register the document on the date of presentation without making the parties to run from pillar to post and also directed to do so on receipt of the order from this Court or on production of the same. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar

//True Copy//

dn/pbn

Sub Assistant Registrar

To

- 1.The Sub-Registrar,  
Office of the Sub Registrar,  
Villivakkam,  
Chennai-600 049.
- 2.The Inspector General of Registration,  
Office of the Inspector General of Registration,  
Santhome,  
Chennai-600 049.

+lcc to Mr.R.Manickavel, Advocate, S.R.No.12526  
+lcc to the Government Pleader, S.R.No.12577

WP.No.4535 of 2015  
and MP.No.1/2015

KSJ(CO)  
CA(18/03/2015)