



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.11.2017

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WEB COPY

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD) No.5673 of 2017

A.Ravi

... Petitioner

Vs.

1. The District Registrar
Registration Department,
Periyakulam Taluk,
Theni District.

2. The Sub Registrar
Registration Department,
Bodinaickanoor Sub Registration Office,
Theni District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the second respondent to receive the mortgage deed, dated 21.03.2017 and other certified copies of the documents which is submitted along with compliance report and register the same in accordance with law.

For Petitioner : Mr.Sukumar
For M/s.V.S.Karthi Associates

For R1 & R2 : Mr.T.S.Mohamed Mohideen
Additional Government Pleader

ORDER

This writ petition has been filed, seeking to direct the second respondent to receive the mortgage deed, dated 21.03.2017 and other certified copies of the documents which is submitted along with compliance report and register the same in accordance with law.

2. Heard the learned counsel appearing on either side.

3. According to the petitioner, the property in question originally belonged to his father and the same was subsequently, transferred to the petitioner by way of a Gift Deed dated 31.05.2005. It is the case of the petitioner that he has borrowed



a sum of Rs.5,00,000/- (Rupees Five Lakhs only) from one N.Ravi by executing a deed of mortgage in his favour. Thereafter, the petitioner approached the second respondent along with necessary documents to register the mortgage deed. But the second respondent did not adhere to his request and returned the same by proceedings No.1 of 2017, dated 21.03.2017 for certain compliances. Aggrieved by the same, the petitioner submitted a representation dated 23.03.2017 to the first respondent and since the same has not been considered so far, the petitioner has come before this Court with the above said prayer.

4. This Court, while dealing with the similar issue in the case of **Lakshmi Ammal vs. The Sub-Registrar, Office of the Sub-Registrar, Villivakkam, Chennai - 600 049 and another [W.P.(MD) No.4535 of 2015, decided on 05.03.2015]**, has been pleased to observe as follows:

"..... 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.."

5. Considering the facts and circumstances of the case and also taking into account the fact that the matter is squarely covered by the earlier decision of this Court (cited supra), this writ petition is disposed of, directing the petitioner to re-present the mortgage deed dated 21.03.2017 along with necessary documents and compliance report to the second respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the same shall be registered as per law, after affording due opportunity of hearing to the petitioner as well as other interested parties, if any, within a period of four weeks thereafter. No costs.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar



To:

1. The District Registrar
Registration Department,
Periyakulam Taluk,
Theni District.

2. The Sub Registrar
Registration Department,
Bodinaickanoor Sub Registration Office,
Theni District.

+ 1 cc TO Mr.VS.Karthi , Advocate in SR No. 88729
+ 1 cc TO The Special Government Pleader in SR No. 88669

rm

AE/KK/SAR1/07.12.2017/4P/5C

W.P (MD) No.5673 of 2017
20.11.2017