

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 07.06.2018****CORAM****THE HONOURABLE MR.JUSTICE M.S.RAMESH****W.P. (MD) No.8499 of 2018**

Duraibaskar

: Petitioner

Vs.

The Joint Sub Registrar,
No.4, Madurai South,
Madurai.

:Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the impugned verification receipt No.4/2018 dated Nil issued by the respondent and quash the same as illegal and consequently direct the respondent to register the petitioner's document which was presented on 02.04.2018.

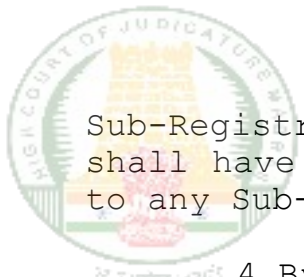
For Petitioner : Mr.D.Saravanan

For Respondent : Mr.V.Anand
Government Advocate**ORDER**

When the petitioner herein has presented a sale deed for registration intending to convey the property comprised in S.F.No.127/1, Kodimangalam Village, Madurai, the same was denied to a check slip calling upon the petitioner herein to produce the original parent title deeds for perusal. Challenging the said check slip dated NIL, the present writ petition has been filed.

2.The learned counsel appearing for the petitioner submitted that there is no provision under the Tamil Nadu Registration Act [hereinafter referred to as "the Act"] or the Corresponding Rules, which enables to empower the petitioner not to insist upon the production of the original title deeds. By relying upon the Rules 55 and 162 of the Tamil Nadu Registration Rules [hereinafter referred to as "the Rules"], the learned counsel for the petitioner submitted that the respondent herein is not justified in insisting upon the production of the original title deeds and directing the petitioner herein to obtain an order of probate of the un-registered Will.

3.The learned Government Advocate submitted that the District Registrar has the power to superintend and control the



Sub-Registrars under Section 68 of the Act and that the Registrar shall have an authority to issue any order consistent with this Act to any Sub-Registrar for the purpose of regulating to registration.

4. By relying upon the circulars, dated 25.04.2012 and 28.07.2016, the learned Government Advocate submitted that the Sub Registrar was well within his powers in insisting upon the petitioner to produce the original title deeds for the purpose of registration.

5. I have given careful consideration to the submissions made by the respective counsels.

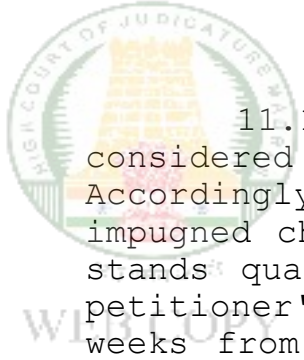
6. As rightly pointed out by the learned counsel for the petitioner, there is no provision under the Act or under the Rules, which empowers to Sub-Registrar to insist for production of the original title deeds at the time of registration.

7. It is a well settled law that the power of the Registrar to refuse registration is on very limited grounds, namely, (a) that the parties appearing or about to appear before him are not the persons they profess to be; (b) that the document is forged; (c) that the person appearing as a representative, assign or agent, has no right to appear in that capacity; (d) that the executing party is not really dead, as alleged by the party applying for registration; or (e) that the executing party is a minor or an idiot or a lunatic. These are the ingredients of Rule 162 of the Rules, which lay down about 19 circumstances, under which, the Sub-Registrar may be justified in refusing registration.

8. In the instant case, the reason of refusal as evident in the check list, is not under any of the circumstances either stipulated under Rule 55 or under Rule 162 of the Rules. Insofar the circulars dated 25.04.2012 and 28.07.2016 are concerned, it is seen that the circulars are not based on any statutory law.

9. As observed earlier, there is no provision under the Act or the Rules, which empowers the Registrar to insist for production of original document. As such, the circulars, which are not in conformity with the provisions of the Act or the Rules, may not have any legal validity or sanctity.

10. In the absence of any provision empowering the Sub-Registrar to insist for production of original deeds at the time of registration either in the Act or in the Rules, it can only be concluded that the circular itself is ab initio void. As such, the respondent may not be justified in relying upon the said circular and consequently insist the petitioner herein to produce the original title deeds for the purpose of registration and directing the petitioner herein to obtain an order of probate of the un-



11. In the light of the above observations, I am of the considered view that the petitioner herein is entitled to succeed. Accordingly, the Writ Petition stands allowed. Consequently, the impugned check slip dated NIL on the file of the respondent herein stands quashed and respondent herein is directed to register the petitioner's sale deed, dated 02.04.2018, within a period of two weeks from the date of receipt of a copy of this order, if it is otherwise in order and consequently return the sale deed to the petitioner forthwith. No costs.

Sd/-
Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

The Joint Sub Registrar,
No.4, Madurai South,
Madurai.

+1cc to Mr.D.Saravanan, Advocate, SR.No.67485.
+1cc to Special Government Pleader, SR.No.67356.

W.P. (MD) No.8499 of 2018
07.06.2018

rmk

RAM/RSK/SAR 1/26.06.2018/3P/4C