

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.11287 of 2020 and
W.M.P.No.13758 of 2020

Mrs. N.Prema

...Petitioner

-Vs-

1. The Inspector - General of Registration
Santhome, Chennai - 600 004.
 2. The District Registrar,
Vellore (Post) and District.
Now Thirupattur District.
 3. The Sub - Registrar,
Jolarpettai (Post)
Vellore District
Now Thirupattur District.
- ...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent namely Sub-Registrar of Jolarpettai in his check slip No.RFL/Jolarpettai/1/2020 dated 10.03.2020 which is confirmed by the second respondent, District Registrar Administration, Vellore in his proceedings Na.Ka.No.2126/B1/2020 dated 06/07/2020 quash the same and to direct the third respondent, Sub - Registrar of Jolarpettai to register the documents (a) Settlement Deed executed by the petitioner Mrs.Prema to her husband Mr.Prabhakaran (b) Power of Attorney Deed by petitioner's brothers Mr.N.Sudarsan and N.Pandiyan and (c) Sale Deed proposed to be executed by the petitioner Mrs.N.Prema relating to her undivided share in and out of 1 acre 18 cents land situated in Survey No.43/3A3 Patta No.222 in Elagiri Hills, Jolarpettai District without insisting upon the original Parent Document D.No.673/1961 and No.2163/1961 relating to the same property subject to payment of proper Stamp Duty, Registration Fees and charges etc. within a period that may be stipulated by this Hon'ble Court.

For Petitioner : Mr.V.Raghupathi
For Respondents : Mr.T.M.Pappiah,
Special Government Pleader

O R D E R

On the consent given by either side, the main writ petition itself has been taken up for final hearing.

2. The case of the petitioner is that the subject property was originally owned by her father and he died on 16.10.1999 leaving behind the petitioner, her brother and sister. According to the petitioner, the original title deed was misplaced and inspite of their best efforts, it was not traceable. Therefore, the petitioner gave a complaint to the police on 14.10.2019 and the Vaniyambadi Town Police Station also issued a Non Traceable Certificate. The petitioner also received the necessary certificate from the Tahsidar, Tirupattur.

3. The petitioner presented a Settlement Deed executed by her in favour of her husband on 06.03.2020, before the third respondent. The third respondent refused to register the document on the ground that the original title deed was not submitted at the time of registration. The petitioner, aggrieved by the same, preferred an appeal before the second respondent and this appeal was also rejected and the petitioner was directed to produce the document as required by the third respondent. Aggrieved by the same, the present writ petition has been filed before this Court.

4. Heard Mr.V.Raghupathi, learned counsel for the petitioner and Mr.T.M.Pappiah, learned Special Government Pleader for the respondents.

5. It is seen from the records that the original title document was lost and the petitioner had taken steps to trace the original document and since it could not be traced, a Non Traceable Certificate was also issued by the Police. The petitioner has fulfilled all the requirements to establish the fact that the original title deed is not traceable.

6. In the considered view of this Court, the third respondent ought to have taken into consideration the Non Traceable Certificate and must have entertained the document by seeking for the Certified Copy of the Title Deed and also an affidavit from the petitioner to the effect that the original document has been lost. This procedure could have served the purpose and unnecessarily the petitioner has been made to

undergo the process of filing an appeal before the second respondent and the second respondent also rejected the claim made by the petitioner.

7. In view of the above discussion, the refusal slip issued by the third respondent and the order of confirmation passed by the second respondent on 06.07.2020 is hereby quashed. The petitioner is directed to present the document viz., the Settlement Deed for registration before the third respondent along with the certified copy of the Title Deed and also a sworn affidavit to the effect that the original deed has been lost and it is non-traceable. The third respondent, on receipt of the same, shall proceed to register the document if it is otherwise in order. It goes without saying that the petitioner shall pay necessary stamp duty and the registration fee at the time of presenting the document for registration.

8. This Writ Petition is allowed with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Inspector - General of Registration
Santhome, Chennai - 600 004.
2. The District Registrar,
Vellore (Post) and District.
Now Thirupattur District.
3. The Sub - Registrar,
Jolarpettai (Post)
Vellore District
Now Thirupattur District.

+1 cc to Mr.V.Raghupathi, Advocate Sr.No. 27691
+1 cc to the Government Pleader Sr.No. 28325

W.P.No.11287 of 2020
& WMP No.13758 of 2020

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rr ii (08/09/2020)