

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.15147 of 2020 &  
WMP.No.18902 of 2020

Mr. M. Babu

... Petitioner

Vs.

The Sub Registrar,  
Padappai,  
Kacheepuram District,  
Tamilnadu.

...Respondent

PRAYER : Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Certiorarified Mandamus alling for the records of the respondent in impugned check slip No.RFL/Padappai/19/2020 dated 25.09.2020, wherein the respondent had refused to register the petitioner's Settlement Deed dated 24.09.2020 and quash the same and direct the respondent to register the petitioner's Settlement Deed dated 24.09.2020 pertaining to property situated at Survey No.345/4, 88, Padappai Village, Sriperumbudur Taluk, Kancheepuram District, measuring an extent of 1 acre and 50 cents based on certified copy furnished by the respondent dated 15.09.2020 .

For Petitioner : Mr.S.Kumar

For Respondents: Mr. T.M. Pappiah, Spl.Govt.Pleader

O R D E R

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

2. This Writ Petition has been filed challenging the impugned check slip issued by the respondent on 25.09.2020, wherein, the respondent has refused to register the Settlement Deed presented for registration on the ground that the original title document has not been produced.

3. The case of the petitioner is that he is the owner of the subject property by virtue of a registered Sale Deed dated 16.11.1995. The petitioner who is aged about 65 years, wanted to settle his property in favour of his two sons. Therefore,

the petitioner executed a Settlement Deed on 24.09.2020 and presented the same for registration before the respondent. The respondent has refused to register the document on the ground that the petitioner did not produce the original title document to the property. Aggrieved by the same, the present Writ Petition has been filed before this Court.

4. Heard Mr.S.Kumar, learned counsel appearing for the petitioner and Mr.T.M. Pappiah, learned Special Govt. Pleader appearing for the respondent.

5. The learned Special Govt. Pleader appearing on behalf of the respondent submitted that even though the petitioner claims to have lost the original title document, no steps were taken by the petitioner to make any publication in the Newspaper calling for objections and give a complaint before the concerned Police Station and secure a non traceable certificate. The learned counsel submitted that the petitioner cannot be allowed to register the document merely based on certified copy of the title document.

6. Per contra, learned counsel for the petitioner submitted that the petitioner is not alienating the property to any third party and what is sought to be done by the petitioner is only to settle the property in favour of his own sons. The learned counsel submitted that this Court has taken a lenient view in cases of this nature, wherein, this Court has directed the respondent to register such Settlement Deeds which does not create any third party right.

7. This Court has carefully considered the submissions made by either side and perused the materials available on record.

8. It is seen from records that the petitioner has purchased the subject property by virtue of a registered Sale Deed dated 16.11.1995. Thereafter, the patta has also been granted in favour of the petitioner in Patta No.988 and the name of the petitioner has been mutated in the revenue records. That apart, the encumbrance certificate that has been filed before this Court shows that after the petitioner had purchased the property, there is no encumbrance till date.

9. It is true that the respondent is expected to verify the original title deeds before proceeding further to register the documents. This is done more to prevent any bogus registrations by persons who impersonate and knock off the property belonging to the true owner. In the present case, the petitioner is only executing a Settlement Deed in favour of his own sons. The petitioner is not seeking to create any third party rights in the subject property. Therefore, taking into consideration, the

peculiar facts and circumstances of the case, this Court is inclined to issue appropriate directions to the respondent to register the Settlement Deed presented by the petitioner for registration.

10.This order cannot be taken as a precedent in any other case and it confines itself to the facts of the present case.

11.In view of the above, the impugned check slip issued by the respondent dated 25.09.2020 is hereby quashed. The petitioner is directed to present the Settlement Deed along with the certified copy of the title deed and also an affidavit explaining about the loss of the original title document and this affidavit shall also be notarised. The affidavit that is submitted by the petitioner along with the document shall be kept as part of the records by the respondent. As and when the petitioner presents the document for registration along with the affidavit, the respondent shall proceed further to register the document, if it is otherwise in order. The petitioner shall also pay the necessary stamp duty and registration fee. The document shall be released after registration.

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

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msr  
To  
The Sub Registrar,  
Padappai,  
Kacheepuram District,  
Tamilnadu.

+1 cc to The Government Pleader, Sr.No. 35874

UM(CO)  
RMP(11/12/2020)

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