

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2020

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.16377 of 2020

N.Shankaran

... Petitioner

VS

1.The Inspector General of Registration, ... Respondents
Department of Registration,
No.100, Santhome High Road,
Chennai-4.

2.Assistant Inspector General of Registration,
No.102, State Bank Road,
District Collector Office Campus,
Coimbatore 641 018.

3.Joint-I Sub Registrar,
No.102, State Bank Road,
District Collector Office Campus,
Coimbatore 641 018.

Writ Petition filed under Section 226 of Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining tot he impugned proceeding RFL/1 No.Joint Sub Registrar Coimbatore/16/2020 dated 28.10.2020 issued by the 3rd respondent and quash the same as illegal, arbitrary and without authority of law and further directing the 3rd respondent to register the settlement deed dated 24.10.2020 presented under TP/96662604/2020 dated 28.10.2020 without insisting for production of original title documents in the light of decisions rendered by this Court.

For Petitioner : Mr.R.Tholgappian

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

ORDER

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 refusal slip issued by the 3rd respondent through proceedings dated 28.10.2020 and for a consequential direction to the 3rd

respondent to register the settlement deed dated 24.10.2020.

3. The case of the petitioner is that the subject property belongs to him. The petitioner wanted to execute a Settlement Deed in favour of his wife and hence, he executed a Settlement Deed on 24.10.2020. The further case of the petitioner is that when this Settlement Deed was presented for registration before the 3rd respondent, the 3rd respondent has refused to register the document on the ground that the original title deed has not been submitted by the petitioner and the petitioner has also not submitted the non traceability certificate for the loss of the original title deed.

4. Heard Mr.R.Tholgappian, learned counsel appearing for petitioner and Mr.T.M.Pappiah, learned Spl.Govt. Pleader appearing for the respondents.

5. It is seen from records that the petitioner is the owner of the subject property. He wanted to execute a Settlement Deed in favour of his wife. It is also seen from records that the revenue records also stand in the name of the petitioner. The petitioner executed a Settlement Deed dated 24.10.2020 in favour of his wife. The 3rd respondent has refused to register the Settlement Deed on the ground that the original title deed has not been presented at the time of registration and the petitioner also did not take any steps to get the non traceability certificate, if at all the original sale deed has been lost.

6. The learned counsel for the petitioner brought to the notice of this Court the earlier orders passed by this Court in various Writ Petitions to the effect that in appropriate cases, the authority can register the document even in the absence of the original title deed not presented at the time of registration.

7. In the present case, the petitioner is not attempting to create any third party rights in the property and the petitioner only wants to execute a Settlement Deed in favour of his wife. It is also seen that the revenue records as well as the property tax receipts, EB Card and other statutory bills also stand in the name of the petitioner. It is also seen that the petitioner is aged about 72 years and therefore considering the peculiar facts of this case, an appropriate direction can be given to the 3rd respondent to register the Settlement Deed presented by the petitioner.

8. In view of the above, the impugned return slip issued by the 3rd respondent is hereby quashed and there shall be a direction to the petitioner to present the Settlement Deed for registration along with a certified copy of the title deed and also an affidavit to the effect that the original title deed has been lost. The 3rd respondent, on receipt of the same, shall retain the affidavit as part of the records and shall proceed to

register the settlement deed, if it is otherwise in order. The petitioner shall also pay the necessary stamp duty and registration fees at the time of registering the document, if not already paid. The 3rd respondent shall release the document after registration.

9. This Writ Petition is allowed with the above directions.

-Sd/-

Assistant Registrar (CS)

// True Copy //

Sub Assistant Registrar

msr

To

1.The Inspector General of Registration,
Department of Registration,
No.100, Santhome High Road,
Chennai-4.

2.Assistant Inspector General of Registration,
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District Collector Office Campus,
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District Collector Office Campus,
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+1 C.C. to The Government Pleader SR.NO.37963

+1 C.C. to MR.R.THOLGAPPIAN Advocate SR.NO.37806

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UM (CO)

UM (15.12.2020)

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