

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.19570 of 2019

Govindammal,
W/o. Raju

... Petitioner

Vs.

1. The Sub Registrar,
O/o. The Sub Registrar,
Avinashi, Tiruppur.

2. P. Samiyappan,
S/o. Ponnusamy

... Respondents.

[R2 impleaded as per order of this Court vide order dated 29.07.2019] in WMP.No.21025/2019)

PRAYER: Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Certiorarified Mandamus, calling for the records relating to the impugned refusal check slip dated 29.05.2019 issued by the respondent and quash the same and further directing the respondent to register the petitioner's document which was presented on 28.05.2019.

For Petitioner : Mr. I. Abrar MD Abdullah

For Respondents : Mr.T.M.Pappiah
Special Government Pleader [R1]

सत्यमेव जयते
O R D E R

This writ petition has been field challenging the refusal check slip issued by the respondent on 29.05.2019, refusing to register the settlement deed presented by the petitioner.

2. The case of the petitioner is that she along with one Samiyappan purchased the property in the year 1995. According to the petitioner she is entitled for 2/3rd share in the property and the said Samiyappan is entitled for 1/3rd share. The further case of the petitioner is that Samiyappan is in possession of

the original document pertaining to the property. The petitioner wanted to settle the 2/3rd share in the property in favour of her son and she executed a settlement deed dated on 28.05.2019. The said document was presented before the first respondent for registration and the respondent refused to register the document by issuing a refusal slip stating that the petitioner had not produced the original document. Aggrieved by the same, the present writ petition has been filed before this Court.

3. Mr.I.Abrar MD Abdullah, learned counsel appearing on behalf of the petitioner submitted that the reason for refusal to register the document is unsustainable in law, since neither the Act nor the Rules provide for production of the original title deed at the time of registration. The learned counsel submitted that the circular that is relied upon by the respondent cannot out weigh the Act and Rules. Therefore the learned counsel submitted that the respondent must be directed to receive the document and register the same and later release the document to the petitioner.

4. Per contra, Mr.T.M.Pappiah, learned Special Government Pleader appearing on behalf of the first respondent submitted that the petitioner neither produced the original document nor the patta and therefore, the first respondent rightly rejected the document submitted for registration. The learned counsel submitted that if the original document is submitted, the document will be registered by the first respondent.

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

6. The specific case of the petitioner is that the original document has been retained by the co-owner, who is owning 1/3rd share in the property and therefore, the petitioner is not in a position to produce the original document. It is also seen from the judgment relied upon by the learned counsel for the petitioner that this Court has held that the respondent cannot insist for original title deed for the purpose of registration of document. It is the case of the petitioner that she wanted to settle 2/3rd share in the property in favour of her Son and therefore she executed a settlement deed dated 28.05.2019.

7. In view of the above, there shall be a direction to the petitioner to re-submit the document viz., settlement deed dated 28.05.2019 to the first respondent along with a certified copy of the title deed. The petitioner shall also submit an affidavit giving reasons as to why she is not in a position to

furnish the original title deed. The first respondent on receipt of these documents, shall proceed to register the settlement deed and release the same to the petitioner, if it is otherwise in order.

8. This writ petition is allowed with the above directions. No costs.

-s/d-
Assistant Registrar

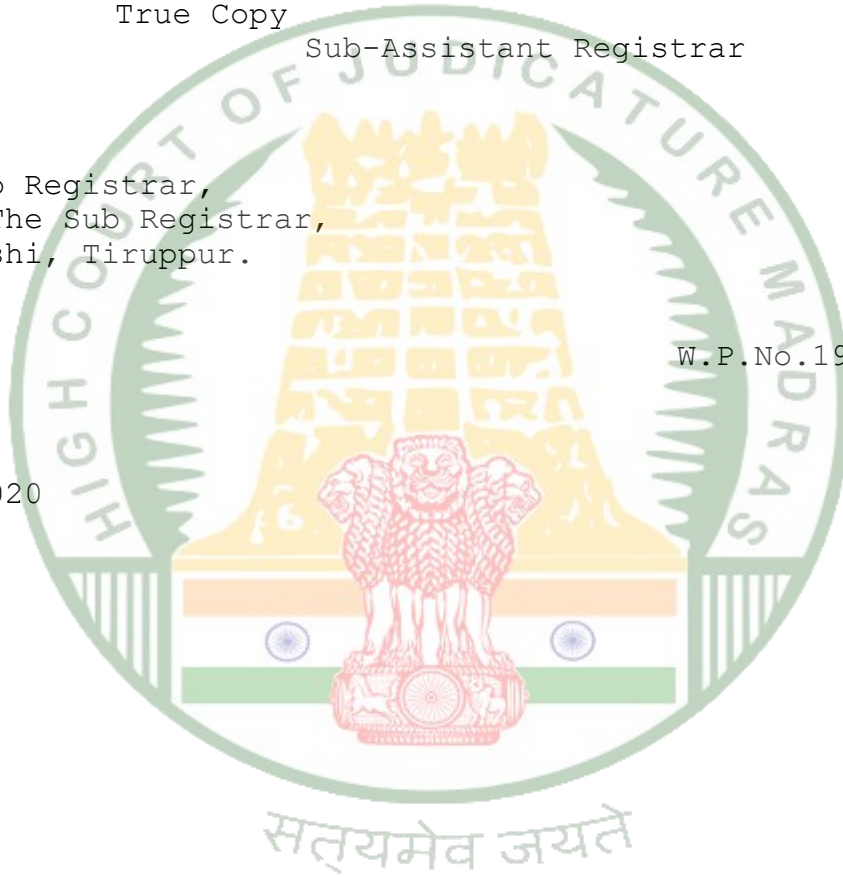
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Sub-Assistant Registrar

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To

1. The Sub Registrar,
O/o. The Sub Registrar,
Avinashi, Tiruppur.

W.P.No.19570 of 2019

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