



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P.(MD).No.2657 of 2020

T.M.K.P.Hajara Beevi

.. Petitioner

Vs.

The Sub Registrar,
Joint - I Registration Office,
Palayamkottai,
Tirunelveli District.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the respondent to register the sale deed by considering the representation, dated 23.01.2020 made by the petitioner.

For Petitioner : Mr.RJ.Karthick

For Respondent : Mr.M.Murugan

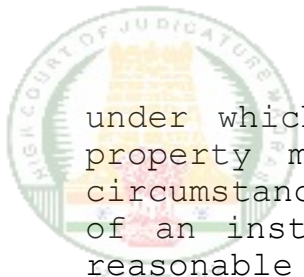
Government Advocate

ORDER

This writ petition is filed for issuing a direction to the respondent to register the sale deed by considering the petitioner's representation, dated 23.01.2020.

2.It is stated that the property bearing door No.45, 45A in T.M.Building at Tirunelveli Junction belongs to petitioner's father by name T.M.K.Peer Mohamed Rowther. It is further stated that the said property was originally let out to one Thirumalai Kozhundhu Pillaiyan in the year 1984 and that the original release deed in favour of the petitioner, dated 21.03.1984, which was produced before the Rent Controller in R.C.O.P.No.239 of 1984 filed by the tenant for deposit of rent is not traceable. It is stated by the petitioner that the petitioner and her family members have decided to sell the property. Since the respondent insists production of original release deed, which is registered as document No.386/1984, dated 21.03.1984, the petitioner submitted a representation to register the document and he has also filed an affidavit before the respondent stating that the original release deed, dated 21.03.1984 filed before the Court in relation to the Rent Control proceedings was destroyed by Court. This Court considered the submissions of learned counsel for the petitioner as well as the respondent.

3.In few other cases, this Court has held that Registering Authority cannot insist production of original for the purpose of registration of the document. There may be several circumstances



under which the owner of the property who wants to deal with the property may not be in possession of the original. In those circumstances, original document to show the title of the executor of an instrument may not be available with him. Unless there is reasonable doubt as to the identity of persons executing the document, the production of original document can be dispensed with in cases where there is acceptable reasons for non production. When the release deed of the petitioner who claims title to the property is registered and the Registering Authority has means to have access to the records, this Court is of the view that the document proposed to be executed cannot be refused on the ground of want of original document of prior title, especially when the petitioner has produced records to show that the document is destroyed. However, in the counter affidavit filed in R.C.O.P, it is stated that the release deed was in favour of petitioner and her brother and sister.

4.Hence, the Registrar is directed to register the sale deed in respect of the property which was conveyed to the petitioner and other by the unregistered release deed, dated 21.03.1984, if the sale deed is other wise validly executed and presented for registration in compliance with all other formalities. It is made clear that on production of sale deed for registration, the Registering Authority may consider the document for registration and shall not refuse to register the document only on the ground that the original or parent document is not produced.

5.With the above directions, this writ petition is allowed.
No costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

TM

To

The Sub Registrar,
Joint - I Registration Office,
Palayamkottai,
Tirunelveli District.

+1 CC to Mr.R.J.KARTHIK, Advocate (SR-7135[F] dated 19/02/2020)

W.P. (MD) .No.2657 of 2020

19.02.2020

VB (02.03.2020) 2P 3C

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