



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated 26.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD)No.16768 of 2020

(Through Video Conferencing)

WEB COPY

A.Krishnamoorthy

... Petitioner

Vs.

The Sub Registrar,
O/o the Sub Registrar,
Sattur
Virudhunagar District.

... Respondent

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the respondent in his proceedings refusal number:RFL/rhj;J}h;/16/2020 dated 13.10.2020 and quash the same as illegal and consequently to direct the respondent to register the gift deed dated 05.10.2020 within the period that may be stipulated by this Court.

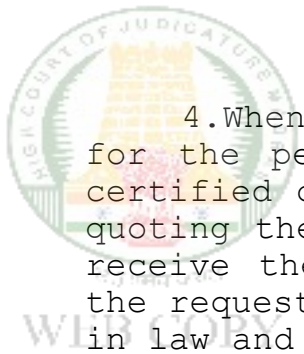
For Petitioner	: Mr.H.Mohammed Imran for M/s.Ajmal Associates
For Respondents	: Mr.K.Sathiya Singh Addl. Government Pleader

O R D E R

The writ petition has been filed challenging the order passed by the respondent dated 13.10.2020 and for a direction to direct the respondent to register the gift deed dated 05.10.2020.

2.Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader, who takes notice for the respondent. By consent of both sides, the writ petition is taken up for final disposal.

3.It is the case of the petitioner that the petitioner is the owner of the property in S.No.8 to an extent of 10.02 cents. It is seen that in order to execute a settlement deed in favour of his daughter, since the original title deeds have not been traced, the petitioner produced certified copies of the documents to the office of the Sub Registrar. However, the Sub Registrar, by citing the Circular No.18339C12012 dated 25.04.2012 issued by the Inspector General of Registration, refused to register the said document. Challenging the said refusal, the petitioner is before this Court with this petition.



4. When the matter is taken up for hearing, the learned counsel for the petitioner contended that for registering the gift deed, certified copies of the documents have been produced. However, by quoting the circular dated 25.04.2012, the Sub Registrar refused to receive the documents. The action of the respondent in rejecting the request of the petitioner in not registering the document is bad in law and hence, the order impugned needs to be interfered with, he contended.

5. However, the learned Additional Government Pleader would contend that for registration, several forged documents have been produced and in order to avoid fraudulent registration Circular No.18339C12012 was issued. By relying the said circular, the learned Additional Government Pleader would submit that unless the details of complaints and other documents are produced, the Sub Registrar may not be in a position to register the document.

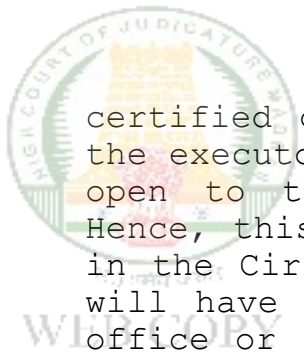
6. In reply, by referring to clause No.(C), the learned counsel for the petitioner would contend that as per Clause No.C, the petitioner has produced the certified copies of the documents and hence, the said certified copies can very well be accepted and registered.

7. It is useful to extract Clause (C) of the circular dated 25.04.2012 for easy reference:

"(C) In case the previous original document is lost, the party should produce certified copy of the document, copy of complaints recorded in police station and copy of advertisement published in local dailies regarding loss of documents. In such case, the party has to produce patta/property tax receipt in original."

8. This Court has already considered the issue in W.P.(MD) No.2657 of 2020, wherein, it is held that there are certain occasions where the original documents may not be available with the executor of the documents and that if there is any reasonable doubt about the identity of the person executing the documents, the original documents can be dispensed with. The entire circular issued on 25.04.2012 cannot be questioned. In fact, the circular issued by the Inspector General of Registration should be appreciated, as in order to avoid duplication of registration and fraudulent registration of the very same property, it has been issued. The contention of the respondent that the extract mentioned by him supra cannot be read in isolation and it got to be read as a whole.

9. Apart from the directions given by this Court in W.P.(MD) No.2657/2020 dated 19.02.2020, this Court is of the view that if the Sub Registrar has got any doubt about the documents, copy of the parent documents, which is available in the office of the Sub Registrar, can be produced and the documents can be very well be verified about the genuineness of the



certified documents produced by the petitioner. Even assuming that the executor is a genuine person and producing fake documents, it is open to the Sub Registrar to refuse to register the document. Hence, this Court is of the view that the condition may be included in the Circular by way of amendment stating that the Sub Registrar will have to verify the records of the parent document from their office or from the office, where the said document is obtained and produced, as the Sub Registrars office have been bifurcated many times, scrutinize the same and after completely satisfied with the document, referring to those documents, he can register the same so that no prejudice would be cause to any person, more so, the buyer. Accordingly, the impugned order is set aside and the matter is remanded back to the authorities.

10. The writ petition is disposed of with the above direction. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

RR

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Sub Registrar,
O/o the Sub Registrar,
Sattur
Virudhunagar District.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-22836[F] dated 26/11/2020)

+1 CC to M/s.SPL GP (SR-23099[F] dated 27/11/2020)

W.P. (MD) No.16768 of 2020
26.11.2020

SSS (CO)
KB(11.12.2020) 3P 4C