

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

W.P.No.1598 of 2020

V.Sekar

... Petitioner

VS.

1.The Sub Registrar
Office of the Sub Registrar
Avaraipakkam
Tindivanam Taluk
Villupuram District.

2.The District Registrar
Villupuram District ... Respondents
[R2 impleaded vide order of the Court dated
02.02.2021 in WP.No.1598 of 2020]

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records and order of the respondent in Inspection Memo No.02/2020 dated 07.01.2020 issued to the petitioner and quashing the same as illegal and directing the respondent to register the gift deed dated 21.10.2019 executed by the petitioner without insisting the petitioner to produce the original sale deed dated 08.1.2015 and accept the certified copy of the same, if it is otherwise in order.

For Petitioner : Mr.J.Antony Jesus

For Respondents: Mr.T.M.Pappiah
Special Government Pleader

ORDER

The petitioner seeks a direction to the Sub Registrar, the first respondent herein to register a gift deed dated 07.01.2020, which the petitioner has executed in favour of the concerned Block Development Officer, consistent with the terms of approval for approving a layout. The petitioner claims title to the said property based on a gift deed, which is registered as No.78/15.

2. The Sub Registrar now requires that to register this

document, the petitioner's original title deed must be produced for perusal.

3. Mr.T.M.Pappiah, learned Special Government Pleader has taken notice for the respondents and made a statement on instructions that the petitioner may file necessary affidavit and certified copies of his title deeds before the Sub Registrar, Avaraipakkam, Tindivanam Taluk for the purpose.

4. This Court is at a loss to understand why the Sub Registrar should not register the document without the production of the original title deed. Even if an enquiry is required to be held within the meaning of Section 34 of the Registration Act, 1908 or a precautionary enquiry under Section 82, still he must have prima facie material to suspect the identity of the vendor, or must have something to indicate that the execution of the document might not have title.

5. Be that as it may, the petitioner was directed to produce a certified copy of the document bearing registration No.78/15 on the books of the respondent. In this regard, it is only unfortunate that the same Sub Registrar repeatedly directs the petitioner to do the same exercise, as could be seen from the orders of this Court in W.P.No.3763 of 2019 dated 08.02.2019 and W.P.No.11579 of 2019 dated 23.04.2019.

6. This Court, Vide its order dated 02.02.2021, suo moto impleaded the District Registrar, Villuparam as the second respondent and required him to see whether the Sub Registrar functions consistently with the Act and complies with the directions given by this Court, which has the force of law.

7. What is intriguing is that the gift deed dated 07.01.2020 is being executed in favour of the Block Development Officer as per the terms of approval of the Town Planning Authority, and the lay out has been developed. When one arm of the execution is already satisfied, and allowed the land to be developed, and when the petitioner himself is executing the gift deed only in terms of the approval so granted by the Town Planning Authority, to insist the petitioner to produce original title deed as well as the affidavit, is one job which is required to be done too many times. If the Sub Registrar has any doubt regarding the title of the petitioner, even while he is holding a preliminary enquiry under Section 34 of the Act, he may as well refer to his own records to ascertain the title of the petitioner.

8. The petition is allowed and the Sub Registrar, Avaraipakkam, Tindivanam Taluk is now directed to register the gift deed dated 07.01.2020, within a period of two weeks from

the date of presentation of the gift deed. No costs.
Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ds

To:

1.The Sub Registrar
Office of the Sub Registrar
Avaraipakkam
Tindivanam Taluk
Villupuram District.

2.The District Registrar
Villupuram District.

+1cc to the Government Pleader, S.R.No. 9513

W.P.No.1598 of 2020

AK II(CO)
GN(18/02/2021)



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