



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2021

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.NO.14623 OF 2021

M.Gopu Madhavan

... Petitioner

.Vs.

The Sub Registrar,
No.1, Joint Sub Registration Office,
Namakkal.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 1st respondent in Refusal Check Slip No.RFL/No.1 Joint Sub Registrar, Namakkal/6/2021 dated 30.04.2021 and quash the same as illegal and arbitrary and without jurisdiction and consequently directing the respondent to register the Settlement Deed dated 30.04.2021 executed by the Petitioner.

For Petitioner .. Mr.K.Suresh

For Respondent .. Mr.Yogesh Kannadasan
(Govt. Advocate)

ORDER

The writ petitioner is aggrieved by the act of the respondent herein in issuing a check slip refusing to register a document of sale presented by him, by which he wanted to convey by way of a Settlement Deed land measuring 8.24 acres out of a larger portion of 9.63 acres which along with another land of measuring 10.47 acres, he had purchased by way of four registered Sale Deeds dated 05.02.2004 and 08.03.2004 registered as Document Nos.213, 363, 1432 and 495 of 2004 in the office of the respondent itself.

2. The petitioner had thereafter sold the other portion namely, 10.47 acres to a Trust, namely, Amuthasurabi Educational



Trust in which he is also a trustee. The said trust had mortgaged the said lands of 10.47 acres with Religare Finvest Limited, Coimbatore. At the time of entering into such a mortgage, the entire parent deeds had been given to the mortgagee.

3. As stated, now the petitioner had dealt with 8.24 acres out of 9.63 acres by way of the Settlement Deed. The respondent refused to register the document claiming that the original parent title deed will have to be given. The parent title deed is now in the possession of mortgagee. They had given a no objection certificate on 27.04.2015 claiming that they have no objection for transfer or encumbering the property.

4. Even otherwise, my attention is drawn to a series of the judgment of this Court. In Lakshmi Ammal Vs. The Sub-Registrar, Office of the Sub-Registrar, Villivakkam, Chennai - 600 049 and another reported in 2015 SCC OnLine Mad 5868, a learned Single Judge in paragraph 9, held as follows:-

"9. Now, the question that arises for consideration is, whether the first respondent can refuse to register the document on the ground that the original parental deed has not been produced before him. Section 71 of the Registration Act, 1998 (herein after called as the Act), contemplates that the Registrar can refuse to register the document giving reasons for refusal. Nowhere in the Registration Act, it contemplates that the Registrar can insist for production of the original parental document. When the Act does not contemplate so, the first respondent cannot insist the petitioner to produce the same. However, the first respondent seems to have relied on the circular of the Inspector General of Registration dated 25.4.2012, in and by which, the Inspector General of Registration has given several instructions to the Sub Registrar and one of the instruction is that he shall require the parties to produce the original parental documents. The circular can only be a guideline and it has no force in law. Unless otherwise such requirement is made under the Registration Act, the guideline alone, without any provisions in the Act, has any role to play. In fact, the said view was taken by this Court in the judgment reported in 2011-2-L.W. 648-K.S. Vijayendran v. The Inspector General of Registration.



5. In that case, the learned Single Judge had allowed the writ petition in which a similar relief was sought and had struck down the impugned order and issued a direction against the respondent therein to register the document presented by the petitioner therein with respect to the property which was the subject matter of the document presented for registration.

6. I follow the said judgment and issue a similar direction to the respondent herein to register the document now presented for registration by the petitioner herein. This would naturally mean that the order refusing registration and directing production of parent title deed will have to be necessarily interfered with and it is interfered with and is struck down. The petitioner may present the document for registration and I am confident that the respondent would do the needful in registering the document.

7. With the said observations, the Writ Petition is allowed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

smv

To

The Sub Registrar,
No.1, Joint Sub Registration Office,
Namakkal.

+1cc to Mr.K.Suresh, Advocate, S.R.No.38518
+1cc to the Government Pleader, S.R.No.39090

W.P.NO.14623 OF 2021

SR-II(CO)
PBS/25/08/2021