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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2021

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.NO.16397 OF 2021

1. V.Selvam
2. Haritha
3. Minor Sudarshan
(Rep. by father of Natural Guardian
V.Selvam)

... Petitioners

Vs.

The Sub-Registrar,
Sub-Registrar Office,
Magudanchavadi
Salem Taluk
Salem District

... Respondent

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the entire records of the respondent relating to the refusal check slip dated 18.06.2021 in refusal No.RFL/MAGUDANCHAVADI/4/2021 and quash the same and to direct the respondent to register the sale agreement dated 18.06.2021 presented by the petitioners before the respondent.

For Petitioners : Mr.P.Jagadeesan

For Respondent : Mr.Yogesh Kannadasan
Government Advocate

O R D E R

This Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the entire records of the respondent relating to the refusal check slip dated 18.06.2021 in refusal



No.RFL/MAGUDANCHAVADI/4/2021 and quash the same and to direct the respondent to register the sale agreement dated 18.06.2021 presented by the petitioners before the respondent.

2. The petitioner's case is that he along with his deceased wife, namely, Dhanam jointly purchased the land measuring 4360 sq.ft., of land in Survey No.38/5C in Katchupalli Village, Edapadi Taluk under the registered sale deed dated 23.04.2007 and registered as document no.1453/2007 in the office of the Sub-Registrar, Magudanchavadi. The patta also issued in the joint name of the petitioner and his wife in Patta no.3403. While so, the petitioner's wife, namely, Dhanam died intestate on 02.05.2016 due to ill health. Thereafter, her parents are attempting to alienate the property taking advantage of the fact that the original title deed is with them. The petitioner issued a notice dated 04.02.2021 to the respondent through an advocate and requested not to register any documents by the parents of the deceased/wife. On 21.01.2021, the petitioner lodged a complaint to the Commissioner of Police, Salem stating that his wife's parents are refusing to return the original title deed and also threatened with dire consequences.

3. According to the petitioner, the deceased brother, namely, V.Selvaraj gave an objection petition to the respondent requesting not to register any documents regarding the above said property. Since one A.Murugan approached the petitioners and offered to purchase the above said property, the petitioner have decided to sell the property to him for the agreed sale consideration and received a sum of Rs.1,00,000/- as advance and entered into a sale agreement dated 18.06.2021 and also presented the said agreement before the respondent for registration on 18.06.2021. However, the respondent issued a refusal check slip dated 18.06.2021 stating the reason for refusal as the original title deed was not filed for purpose of verification.

4. The learned counsel for the petitioner submits that the respondent failed to note that the original title deed for the property sought to be sold was in the custody of 1st petitioner's deceased wife's parents and they are refusing to handover the same, which resulted in giving complaint to the respondent and also the Commissioner of Police. Further, the 1st petitioner's brother in law also sent an objection petition to the respondent and in the said petition, he has categorically admitted that the original deed was with them.

5. It is also the submission of the learned counsel for the petitioner that this Court had categorically held in the decision reported in 2021 (2) CTC 526 (Sivanadiyan Vs. Sub-Registrar, Pudukottai) and also in the Judgment of this Court in W.P.No.4535 of 2015 dated 05.03.2015 [Lakshmi Ammal Vs. the Sub



Registrar, Villivakkam] that the registering Authority should not refuse to register the document on the ground that original title deed was not produced. Hence pleaded to set aside the order passed by the respondent.

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6. Mr.Yogesh Kannadasan, learned Government Advocate appearing for the respondent, on instructions from the officer of the respondent/Department submitted that a direction may be issued to the petitioner to produce a Certified Copy of the Original document and eight weeks time may also be granted to the respondent to consider the same.

7. Heard the learned counsel on either side and perused the documents placed on record.

8. On going through the refusal Check Slip, it is seen that the original documents have not been produced. In view of the fact that there are innumerable bogus documents and the same are registered on day today basis, the Registering Authority has requested to produce the original documents in order to curtail the malafide transactions and forged documents. Further, only based on the appropriate guidelines issued by the Hon'ble Division Bench of this Court and in order to substantiate that there is no forgery in the transactions that are being registered, the concerned authorities are seeking production of the original documents. That being the case, the petitioner's contention that the authorities cannot request the parties to produce original documents, cannot be accepted.

9. In view of the above and in order to verify the title of the concerned parties and to avoid unnecessary further litigation in the transaction, the petitioner is directed to approach the concerned authority and obtain a certified copy of a document and submit the same before the registering authority / respondent along with the supporting documents to establish the identity and title of the parties. On receipt of such documents, the respondent is directed to consider and pass orders on merits and in accordance with law within a period of eight weeks thereafter.

In the result, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

ssd



To

The Sub-Registrar,
Sub-Registrar Office,
Magudanchavadi,
Salem Taluk,
Salem District.

+1cc to Mr.P.Jagadeesan, Advocate, S.R.No.42818

+1cc to the Government Pleader, S.R.No.43048

W.P.No.16397 of 2021

SSI(CO)
RLP(22/09/2021)