



IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED : 20.09.2021

CORAM:

WEB COPY

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No. 16134 of 2021

T.P. Muthusami

... Petitioner

Versus

The Sub Registrar  
The office of Sub Registrar,  
Thiruchengode - 637 302,  
Namakkal District.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Refusal Check Slip in Refusal No. RFL/Thiruchengode/71/2021, dated 12.07.2021 passed by the respondent and to quash the same as illegal incompetent and ultra-virus and consequently, to direct the respondent to register the sale deed presented by the petitioner for registration without insisting for the production of original parent document within the time stipulated by this Court.

For Petitioner : Mr.Ma.Pa.Thangavel  
For Mr.M.Lokesh

For Respondent : Mr.Yogesh Kannadasan  
Government 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 Sale Deed land measuring 3 acres and 31 cents (1.34.0 Hecters) in Old SF.No.19, New SF.No.19/1 in T.Pudhupalyam Village, for the valuable consideration and the same was duly registered in Thruchengode Sub Registrar Office vide Document No. 2150 of 1982, dated 29.11.1982 and Patta No.179, from the date of purchasing of the property, the petitioner is in peaceful possession and enjoyment of the property till date.

2.The petitioner had thereafter sold the property in favour of one Mrs.S.Kalaiselvi, Wife of Yuvaraj, for the valuable consideration to a sum of Rs.5,25,000/- and therefore a sale deed dated 12.07.2021 have been prepared and

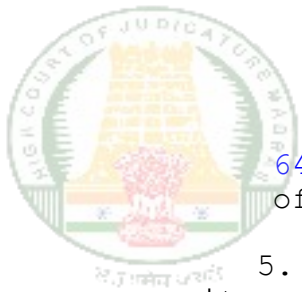


presented for registration with all required documents and prescribed fees before the respondent office along with certified copy of the parent document. Since the property was purchased in the year of 1982, and after a lapse of 40 years due to inadvertent mistake and change of house in the village, his parent document has been misplaced and where about could not be traced out, it is pertinent to submit that he has not sold the above said property to any third party which reveals from the encumbrance certificate.

3.As stated, now the petitioner had dealt with 1.34.0 hectares by way of the Sale Deed. The respondent refused to register the document claiming that the original parent title deed will have to be given. The respondent office has refused to register the document and return the sale deed by stating reason that to present the document along with parent document as per the circular dated 25.04.2012 in proceedings number 18339/C1/2012 issued by the Inspector General of Registration, Chennai.

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 VII)

//True Copy//

Sub Assistant Registrar

To,

The Sub Registrar  
The office of Sub Registrar,  
Thiruchengode - 637 302,  
Namakkal District.

+1 cc to Mr.M.Lokesh, Advocate Sr.NO. 47987  
+1 cc to Government Pleader Sr.NO. 48631

W.P.No.16134 of 2021

GJ(CO)  
A.SK(27.10.2021)