



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2021

CORAM:

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P. No.16852 of 2021

Selvaraj

... Petitioner

-Vs-

1.The Inspector General of Registration,
100, Santhome High Road,
Chennai.

2.The District Registrar,
Tiruppur District, Tiruppur.

3.The Sub-Registrar,
Dharapuram Taluk, Tiruppur District.

... Respondents

PRAYER: This Petition is filed under Article 226 of the Constitution of India, praying for the issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Refusal Check Slip issued by the 3rd respondent in refusal number: RFL/Dharapuram/28/2021 dated 13.07.2021 and to quash the same as illegal and incompetent and consequently direct the 3rd respondent to register the Gift deed dated 13.07.2021 executed by the petitioner.

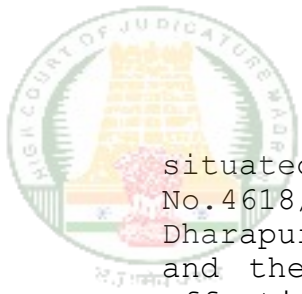
For Petitioner :: Ms.Sasee, for Mr.M.Guruprasad

For Respondents :: Mr.Yogesh Kannadasan
(Government Advocate)

O R D E R

The relief sought for in this writ petition is to call for the records pertaining to the Refusal Check Slip issued by the 3rd respondent in refusal number:RFL/Dharapuram/28/2021 dated 13.07.2021 and to quash the same as illegal and incompetent and consequently direct the 3rd respondent to register the Gift deed dated 13.07.2021 executed by the petitioner.

2.The learned counsel for the petitioner would submit that the petitioner owns an extent of 0.48 acres of land situated in R.S.No.324/2 and an extent of 0.13 acres of land



situated in R.S.No.322/3 and the same was registered as Document No.4618/2009 dated 18.06.2009 before the Sub-Registrar office, Dharapuram. He is in possession and enjoyment of the property and there is no dispute in that regard. Out of his love and affection towards his wife Rajathi, the petitioner opted to gift the same to her. As a result, he executed a gift deed in favour of his wife before two witnesses with the prescribed stamp fee. But the office of the respondent for the indefensible reasons, had refused to register the gift deed and furnished him the refusal slip which is impugned here. As the gift deed was executed in the prescribed manner, the 3rd respondent cannot refuse the gift deed for the reason that Original document was not produced. The impugned Refusal Slip issued by the 3rd respondent in disobedience to the recent Judgment passed by the Hon'ble Court of Madurai Bench vide W.P.(MD).No.19745 of 2020 in "Sivanadiyan Vs. The Sub-Registrar, Pudukottai" on 11.02.2021 wherein the Hon'ble Court decided that the production of Original Document for registration is not mandatory. It has become necessary for him to get the gift deed registered. The order of the 3rd respondent in refusing to register the Gift Deed is untenable and hence left with no other alternative or efficacious remedy, the petitioner has approached this Court by invoking his prerogative right under Article 226 of the Constitution of India, 1950. Hence, this Writ petition.

3. The learned counsel for the petitioner would submit that there is no need to produce original documents before the respondents for registration of documents as per the observation of Hon'ble Court of Madurai Bench vide W.P.(MD).No.19745 of 2020 in "Sivanadiyan Vs. The Sub-Registrar, Pudukottai" on 11.02.2021 wherein the Hon'ble Court decided that the production of Original Document for registration is not mandatory. However, the petitioner has to prove that the original document has been missed for which he has to publish the same in any local publication in and around his area and make complaint before the police station in this regard after producing copy of the related documents. Having the copy of the publication and complaint copy, the petitioner may be directed to approach the respondent to register the Gift Deed as prayed for.

4. 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.



5. Moreover, since the title deed is said to have been missed, the petitioner is directed by order dated 12.08.2021 of this Court petitioner to comply the procedure as stipulated in the Circular with respect to missing documents. Accordingly, the petitioner has published the issue in Daily Thanthi on 26.09.2021 and made complaint with regard to missing documents by RPAD to the local Police Official, the Registrar can consider the certified copy of the said document to be produced by the petitioner.

6. 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 obtain copy of the FIR with regard to missing of Original Title Deeds and publication made in Daily Thanthi and submit the same before the registering authority / respondent along with the supporting documents to establish the identity and title of the the petitioner. On receipt of such documents, the respondent is directed to consider the said documents and pass orders on merits and in accordance with law within a period of eight weeks thereafter.

7. With the aforesaid directions, the Writ Petition is disposed of. Consequently connected miscellaneous petition is closed if any. No costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

Lbm

To:

1.The Inspector General of Registration,
100, Santhome High Road,
Chennai.

2.The District Registrar,
Tiruppur District, Tiruppur.

3.The Sub-Registrar,
Dharapuram Taluk, Tiruppur District.

+1cc to Mr.M.Guruprasad, Advocate SR. No.52828

+1cc to the Government Pleader SR. No.53199

W.P. No.16852 of 2021

NMI (CO)

PR (10/12/2021)

<https://hcservices.ecourts.gov.in/hcservices/>