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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2021

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.19520 of 2021

Vijayalakshmi

... Petitioner

Vs.

The Sub Registrar,
Periamet,
Chennai.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari Mandamus, to call for the records in Refusal Memo No.RFL/Periamet/33/2021 dated 10.08.2021 on the file of respondent and quash the same and direct the respondent to register the Release Deed dated 30.04.2021.

For Petitioner : Mr.S.Veeraraghavan

For Respondent : Mr.Yogesh Kannadasan
Government Advocate

ORDER

This writ petition has been filed for a mandamus to quash the Refusal Memo No.RFL/Periamet/33/2021 dated 10.08.2021 on the file of the respondent and direct the respondent to register the Release Deed dated 30.04.2021.

2.The case of the petitioner is that the house and ground property situated at New Door No.209/92, Old Door No.85, Swamy Naicken Street, Chintadripet, Chennai - 600 002 admeasuring 1848 Sq.ft of land and the ground and first floor buildings thereon comprised in C.C.No.1165, R.S.Nos.1135/1 & 1136/2, block No.16 of Chintadripet Village, Mylapore Taluk, Chennai District was owned by her father late P.S.Ramachandran.



3.The petitioner submits that she purchased the same from Mr.A.S.Subramania Sah and 5 others under the Sale Deed dated 18.04.1977 vide Document No.177/1977 before the SRO, Periamet.

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4.The petitioner further submits that her father had died intestate on 05.12.2002, she along with her brothers viz., Mr.P.R.Balaji, Mr.P.R.Suresh, Mr.P.R.Kumar and mother Mrs.Hamsaveni have acquired and entitled 'A' schedule property as the legal heirs each 1/5 share.

5.According to the petitioner, one of her brother Mr.P.R.Kumar had died intestate leaving behind his wife and children on 28.07.2006 and her mother Mrs.Hamsaveni had released her 1/5 share in the above said 'A' schedule property to one of her brother Mr.P.R.Balaji under the Release Deed dated 26.08.2013 vide Document No.1930/2013 before the SRO, Periamet and the said Mr.P.R.Balaji is now holding 2/5th share in the said property.

6.The petitioner submits that the said Release Deed was fraudulently registered without the consent of their mother Mrs.Hamsaveni and hence herself and her brother P.R.Suresh and legal heirs of the deceased P.R.Kumar has filed a Civil Suit in O.S.No.4829 of 2013 for partition and declaration before the VII Additional City Civil Court, Chennai.

7.The petitioner further submits that the house property original document holding by her brother P.R.Balaji and when the case is pending, their mother Mrs.Hamsaveni had died on 09.09.2014 and hence the share must have enlarged 1/4 shares, as the suit is pending it is presumed at present that the release can be made by her towards 1/5 share in the said property.

8.According to the petitioner, she along with her brothers Mr.P.R.Balaji, P.R.Suresh and legal heir of Mr.P.R.Kumar were jointly residing in the above said property, as her elder brother Mr.P.R.Suresh is lovable and kind towards her and she has decided to release her share of 1/5 in the property to him by way of executing the Release Deed.

9.The petitioner submits that on 30.04.2021, she had executed the Release Deed before the respondent Office, the respondent had demanded her to produce the original document relating to 'A' schedule property.



10.The petitioner further submits that she had explained him that the said original document is with her brother P.R.Balaji and her brother has not accepted to show the said document for registration and hence she produced a certified copy of the document which was issued by the respondent office, but the respondent has not considered her explanation and had refused to register the document for the want of the original document.

11.According to the petitioner, there is no provision in the Registration Act that the original document had to be produced during the registration but the respondent had insisted her to produce the document as she had explained the fact that at present the document cannot be produced and the respondent had issued the impugned memo dated 30.04.2021 arbitrarily which is liable to be quashed.

12.The petitioner has no other alternative remedy except to approach this Court under Article 226 of the Constitution of India. Hence, the writ petition filed.

13.Heard, learned counsel for the petitioner and the learned Government Advocate for the respondent and perused the materials available on record.

14.In view of the above facts and circumstances of the case and considering the submission made by the petitioner, this Court directs the respondent to consider the documents filed by the petitioner viz., certified copy of the document, legal heir certificate and death certificate and pass appropriate orders in accordance with law after affording opportunity to the petitioner, within a period of 12 weeks from the date of receipt of a copy of this order.

15.With the above direction, this Writ Petition is disposed of. No costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR



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To

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The Sub Registrar,
Periamet,
Chennai.

+lcc to Mr.S.Veeraraghavan, Advocate Sr.49817
+lcc to the Government Pleader Sr.50091

W.P.No.19520 of 2021

sra[col]
srg 30/11/2021