



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2021

CORAM:

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.18028 of 2021

Mrs. Rasamani

...Petitioner

-Vs-

The Sub-Registrar,
Office of the Sub-Registrar,
Main Road,
Vikramangalam 621 701
Ariyalur District.

...Respondent

PRAYER : This Petition is filed under Article 226 of the Constitution of India, praying for the issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned refusal slip in RFL/Vikramangalam/35/2021 dated 12.08.2021 issued by the Sub-Registrar, Vikramangalam and quash the same as illegal and consequently direct the Respondent to register the settlement document presented by the Petitioner for registration without insisting for the original parental document in the light of the order made in the case of K.S. Vijayendran vs. Inspector General of Registration, Chennai, - 2011 (2) LW 648, within the time as may be stipulated by this Hon'ble Court and pass orders accordingly.

For Petitioner : M/s.Usha Ramman

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, praying for the issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned refusal slip in RFL/Vikramangalam/35/2021 dated 12.08.2021 issued by the Sub-Registrar, Vikramangalam and quash the same as illegal and consequently direct the Respondent to register the settlement document presented by the Petitioner for registration without insisting for the original parental document in the light of the order made in the case of K.S. Vijayendran vs. Inspector General of Registration, Chennai, - 2011 (2) LW 648, within the time as may be stipulated by this Hon'ble Court and pass orders accordingly.



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2. The case of the petitioner is that the petitioner had purchased the property in the year 1989 vide registered sale deed No. 516/1989 dated 12.06.1989 wherein the petitioner's son also was shown as joint purchaser. The said sale deed was registered in the name of the petitioner and his son namely Mr. Veeramuthu. Subsequently, the petitioner's son died in the year 1994. The original sale deed is with the petitioner's daughter-in-law namely Mrs. Gangaammal. The joint patta is registered in the name of the petitioner and her daughter-in-law vide patta No. 42 for measuring an extent of 0-70-5 Ares, situated in Govindaputhur village, Vikramangalam, Udayarpalayam Taluk. The petitioner is bestowed with two children out of wedlock. The petitioner intended to execute the settlement deed in favour of her daughter's son Mr. Kolanji, for her share. Hence, the petitioner has presented the settlement deed with respondent on 12-08-2021, by enclosing the copy of the sale deed No. 516/1989 dated 12.06.1989 and joint patta which are registered in the name of the petitioner. The respondent refused to register the settlement deed and insisted the petitioner to produce original parental sale deed No. 516/1989 dated 12.06.1989. It has been disclosed the fact by the petitioner herein that the registered parent deed is with her daughter-in-law and she refused to furnish the original deed since she did not want to execute settlement deed in favour of his daughter son. Without perusing the documents, the respondent insisted for production of the original parental document No. 516/1989 dated 12.06.1989. Under such circumstances, the petitioner intends to execute her share measuring an extent of 0.35.25 Ares (0-70.50 Ares) by way of settlement deed to her grandson Kolanji, whereas due to family quarrel the original parental document is withheld by the petitioner's daughter-in-law (Gangai Ammal) who is refusing to part with the same. Even though the petitioner paid necessary charges to the respondent and presented the settlement deed on 12.08.2021, for registration, the respondent refused to register the document and stated as parent original document was not produced for verification. Further, the respondent issued impugned order in REFUSAL RFL/VIKRAMANGALAM/35/2021 dated 12-08-2021 and refused to register the document as the petitioner has not produced the original parental document for verification. As against the impugned refusal Slip dated 12.08.2021, the Petitioner herein prefers the present writ petition by invoking under Article 226 of the Constitution of India.

3. The learned counsel for the petitioner would submit that the respondent ought to note that the registered sale deed document No. 516/1989 is very much available on the records of the respondent, it clearly discloses that the petitioner is one of the purchaser along with his son and there is no encumbrance in that property from the date of purchase till this date. Further, the refusal of the respondent is only on the basis of



the fact that parental document has not been produced for perusal of the authorities.

4. It has been further submitted that due to family issues the daughter-in-law withheld the original document and the petitioner has a right to settle in favour of her grandson. Hence the refusal, without any reason, ought not to be entertained and the same deserves to be quashed in the light of the Judgment of this Hon'ble Court in "K.S. Vijayendran Vs. Inspector General of Registration", Chennai, - reported in 2011 (2) LW 648. As the petitioner intends to settle her property in favour of her grandson for his livelihood and it is the only property which is in enjoyment of the Petitioner for 32 years and the Patta is standing in the name of the petitioner on the date of presentation of the document to the respondent. Despite proving her bona-fides, the respondent ought not to have rejected the document when, as of now, there is no hassle.

5. The learned counsel for the petitioner would further submit that this Court may be pleased to look into the decision rendered in 2011 -" K.S. Vijayendran vs. Inspector General of Registration, Chennai", wherein it was decided that there is no authority to insist upon the original document and circulars and guidelines in this regard have been thrashed at the hands of this Hon'ble Court in respect of various decisions- in "2015 SCC Online 5868", There is no statutory force for the authorities to insist upon the original documents and the courts have strongly held by way of various decisions that such insistence is nowhere in the provisions of the Registration Act. In W.P. No. 19745 of 2020, it has been categorically held that insistence of production of original documents by the Registering authorities is without any authority in law. The circular issued by the Inspector General of Registration, Chennai, in this regard cannot have any sanctity, unless the power of issuance of such circular is authorized under the provisions of the Act and no such power can be read into the Act, in the absence of any specific provisions.

6. It has been further submitted that this Court may be pleased to note that under Section 71 of the Registration Act contemplates the Registrar can refuse to register a document giving reasons, but nowhere it is contemplated that the Registry should insist for production of the original document when the Act does not contemplate so.

7. The learned counsel for the petitioner would submit that the respondent failed to note that the parent document was registered in the name of petitioner and her son. The joint patta No.42 has been issued in favour of petitioner and her daughter-in-law for Survey No.100/2B measuring an extent 0-70.50 Ares. The petitioner is intending to execute her share 0-35-25



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Ares in favour of her Grandson. The copy of the registered sale deed No. 516/1989 dated 12.06.1989 and joint patta registered in the name of petitioner also produced before the respondent for verification. The petitioner purchased the property and she has every right to execute settlement deed in favour of her Grandson, the respondent without verifying the copy of the sale deed and patta registered in the name of petitioner, the respondent passed an impugned refusal order in RFL/Vikramangalam/35/2021 dated 12.08.2021, is illegal. 5. I state that I have not filed any suit or petition or writ petition for the same cause of action. Hence, the petitioner is left with no other option except to approach this Court seeking for to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned refusal slip in RFL/Vikramangalam/35/2021 dated 12.08.2021 issued by the respondent-Sub-Registrar, Vikramangalam and quash the same and consequently direct the Respondent to register the settlement document presented by the Petitioner for registration without insisting for the original parental document and pass orders accordingly.

8. The learned Government Advocate appearing for the respondent would submit that the refusal of the registration is on the ground of the Circular issued by the Office of the Inspector General of Registration. However, there is no provision of Law to produce the Original Documents before the Registering Authority while the petitioner has proved her possession and enjoyment of the said property by way of the Certified copy of the Parent documents and other related documents. Hence, the petitioner may be directed to produce the certified copies of the Original Documents and other related documents before the respondent to ensure her possession and enjoyment of the property by which the respondent may be directed to register the same in accordance with law.

9. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent as well as perused the material available on records.

10. Having considered the facts and circumstances of the case and submissions made by the learned Counsel on either side as well as perused the observations made by this Court in the similar case, this Court is of the view that insistence of production of original documents by the Registering authorities is without any authority in law. The circular issued by the Inspector General of Registration, Chennai, in this regard cannot have any sanctity, unless the power of issuance of such circular is authorized under the provisions of the Act and no such power can be read into the Act. In the absence of any specific provisions, the respondent cannot refuse to register the document while the petitioner has proved her possession and



enjoyment of the property along with related documents. It is admitted fact that the original documents are required to produce before the Registering authority to ensure the claim of the parties concerned, in the said property to avoid multiplicity proceedings with regard to registering the documents to wrong parties.

11. Hence, the petitioner shall produce the certified copy of the Parent Documents and other related documents from the authority concerned along with Aadhar Card to ensure the petitioner who is in the possession and enjoyment of the said property. After receipt of the same, the respondent shall register the Settlement Deed executed by the petitioner as per procedure contemplates in the Law.

12. The Writ petition is disposed of accordingly. Consequently, connected miscellaneous petition is closed if any. There shall be no order as to costs.

Sd/-
Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar

Lbm

To:

The Sub-Registrar,
Office of the Sub-Registrar,
Main Road,
Vikramangalam 621 701
Ariyalur District.

+1cc to M/s.Usha Ramman, Advocate SR.No.43952

+1cc to the Government Pleader SR.No.44597

W.P.No.18028 of 2021

SRA(CO)
RVM(02/11/2021)