

W.M.P. No.21337 of 2021
in
W.P.No.16425 of 2021

V. BHAVANI SUBBAROYAN, J

This petition has been filed before this Court to permit the petitioner to amend and substitute the word "Thookanaikenpalayam" instead of "Sathyamangalam" in the cause title of the affidavit and Writ petition in W.P. No.16425 of 2021 and pass orders accordingly.

2. Heard the learned counsel for the petitioner and perused the affidavit filed by the petitioner herein.

3. As the petitioner has made an inadvertent error by mentioning the respondent in the cause title as "The Sub-Registrar, Sathyamangalam" instead of "The Sub-Registrar, Thookanaikenpalayam", the Registry is directed to substitute the word as "Thookanaikenpalayam" instead of "Sathyamangalam" in cause title of the order in W.P. No.16425 of 2021 and issue a fresh order copy to the counsel concerned after carrying out the necessary correction.

04.10.2021

V.BHAVANI SUBBAROYAN, J.,

Lbm



W.P.No.16425 of 2021

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04.10.2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.08.2021

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THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.16425 of 2021

K.Palanisamy

... Petitioner

Vs.

The Sub-Registrar,
Sathyamangalam,
Erode 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 pertaining to the impugned refusal check slip made in Refusal No.RFL/Thookanaikenpalayam/14/2021 dated 19.07.2021 by the respondent, quash the same and consequently direct the respondent to register the pending sale deed document no.TP/103569411/2011 without insisting the original parent document and legalheirship and death certificates of the petitioner's vendor's predecessors in title.

For Petitioner : Mr.D.R.Arunkumar

For Respondent : Mr.Yogesh Kannadasan
Government Advocate

ORDER

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 pertaining to the impugned refusal check slip made in Refusal No.RFL/Thookanaikenpalayam/14/2021 dated 19.07.2021 by the respondent, quash the same and consequently direct the respondent to register the pending sale deed document no.TP/103569411/2011 without insisting the original parent document and legalheirship and death certificates of the petitioner's vendor's predecessors in title.

2. According to the petitioner, the property in question was originally owned by the maternal great grandfather of petitioner's vendor, viz., Maasanaiker, which was registered in SRO Sathyamangalam as Doc.No.249/1978 measuring 2.65 acres. After his demise, the property devolved upon his wife Bogammal and their only daughter Masammal. Subsequently, they had jointly sold a portion of the property 0.33 cents to the third parties. Thereafter, the said Bogammal died leaving behind her only daughter Masammal and hence she was in absolute possession and

enjoyment of the property. Subsequently, the said Masammal also died leaving behind her two sons, namely, Thangaraj and Manoharan and her two daughters, namely, Masammal and Jayambal as her legal heirs. As such each of them have 1/4th undivided share of the property. The said Thangaraj died leaving behind the petitioner's vendors and the said Manoharan died leaving behind the petitioner's vendors.

3. It is the further case of the petitioner that the death certificates and legal heirship certificates of the said Thangaraj and Manoharan is available and the same were annexed with the sale deed document no.TP/103569411/2021 produced for registration on the file of the respondent. After paying the lawful consideration for the petitioner's vendors for the said property, the sale deed presented for registration vide TP/103569411/2021 on the file of the respondent on 19.07.2021. However, the respondent refused to register the document and issued the impugned check slip for want of production of the original sale deed dated 13.02.1978 which was registered in SRO – Sathyamangalam as Doc.No.249/1978 and our vendors' parents' death certificate and legal heirship certificate and also their great grant parents' death certificate legal heirship certificate. Hence this petition.

4. The learned counsel for the petitioner would submit that the vendors of the petitioner could not fetch the documents stated by the authority and they also expressed their difficulty in producing the legal heirship certificates and original parent deed. But the respondent herein has refused to register illegally and against the dictum laid down by this Court in catena of decisions.

5. It is also the submission of the learned counsel for the petitioner that the Hon'ble Division Bench of this Court had categorically held in the decision reported in 2021 (2) CTC 526 (Sivanadiyan Vs. Sub-Registrar, Pudukottai) and also in W.P.No.674 of 2015 dated 05.03.2015 [N.Ramayee Vs. The Sub Registrar, Registration Department, Salem] 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.

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 twelve 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. Moreover, since the parent document is held by the other party and it is very difficult to get the same from them, the petitioner is directed to produce the certified copy of the said document which will be sufficient for the Sub Registrar to consider the title of the said parties, who are vendors of the petitioner, the vendor's father's certificate are filed herein and the

legal heirship Certificate has been affixed, that being the case, the Registrar can consider the certified copy of the said document to be produced by the petitioner, as a parent document. The death certificates as well as the legal heir certificates would show that Palaniammal, Mahendran, Ravikumar are the legal heirs of the said Thangaraj and Poongodi, Kuppuraj and Meena are the legal heirs of Manogaran.

10. 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 the said documents and pass orders on merits and in accordance with law within a period of twelve weeks thereafter.

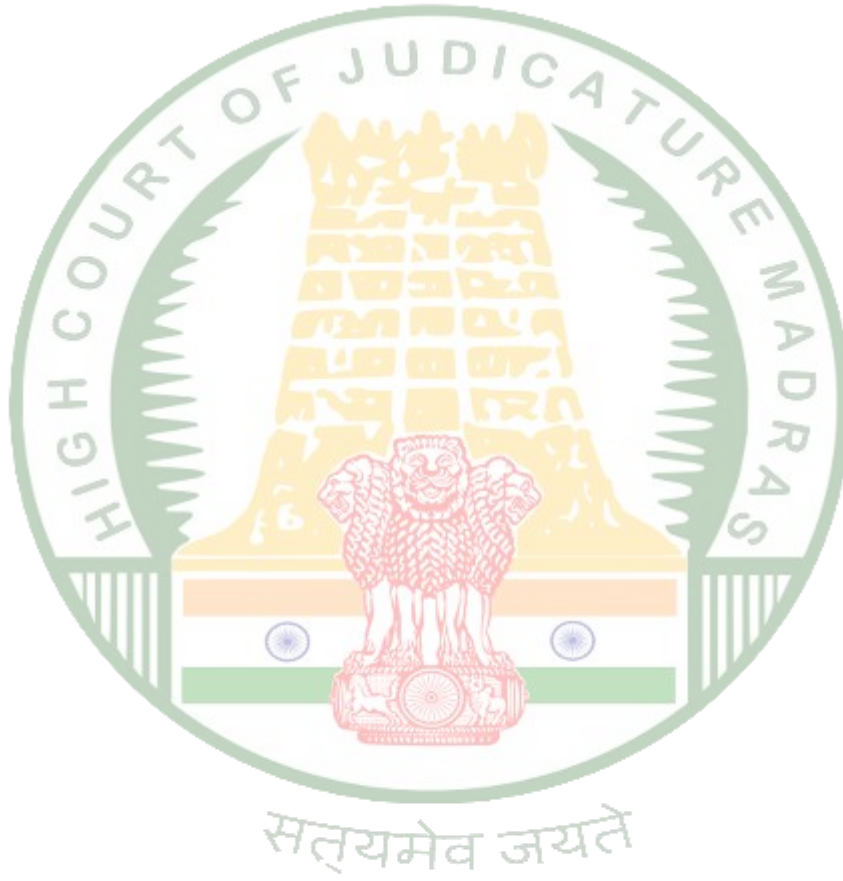
In the result, the Writ Petition is disposed of. No costs.

25.08.2021

Index : Yes/No
Internet : Yes/No
Speaking /Non-Speaking Order
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To

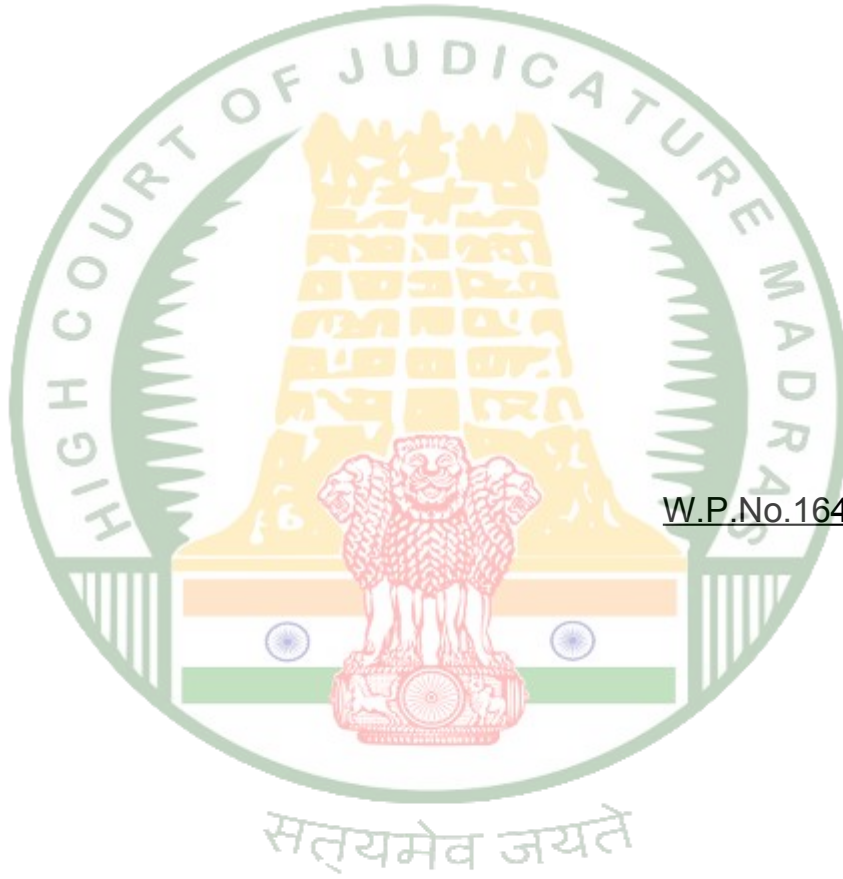
The Sub-Registrar,
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