



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2021

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.NO.20239 OF 2021

AND

W.M.P.NO.21493 OF 2021

Ramani Jayaprakash

... Petitioner

Vs.

1. The Sub-Registrar,
Thiruvottriyur Sub-Registrar Office,
Thiruvottriyur,
Chennai - 600 019.
2. The Inspector General of Registration,
Office of the Inspector General of Registration,
Santhome, Chennai - 600 004.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order/Check Slip in RFL/Thiruvottriyur/4/2021, dated 23.08.2021, issued by the 1st respondent and quash the same directing the first respondent to register the document namely the Settlement Deed dated 23.08.2021, presented for registration by the petitioner and return the document to the petitioner after completing all the formalities of the registration.

For Petitioner : Mr.Ralph V.Manohar
For Respondent : Mr.Yogesh Kannadasan
Government Advocate

ORDER

This writ petition has been filed for issuance of Writ of Certiorarified Mandamus to quash the order of the first respondent in RFL/Thiruvottriyur/4/2021 dated 23.08.2021 and



further direct the first respondent to register the document viz., the Settlement Deed dated 23.08.2021, presented for registration by the petitioner and return the document to the petitioner after completing all the formalities of the registration.

2.The case of the petitioner is that the property house, ground and premises bearing Door No.67, Dr.Ambedkar Street, Manali, Chennai - 600 068, in Survey No.200/1 of Manali Village, Thiruvottriyur Taluk, measuring to an extent of 3263 sq.ft, belonging to her husband T.K.Jayaprakash, who had purchased the same under a Sale Deed dated 29.03.1993, registered as Document No.810 of 1993 before the SRO, Thiruvottriyur from one G.Sriraman out of his self acquired money.

3.The petitioner submits that her husband died intestate on 08.08.2017, leaving behind herself and two sons viz., T.J.Rijesh and Prijesh Tharayil Jayaprakash as his lawful legal heirs to succeed his estate and on 18.05.2021 T.J.Rijesh also died intestate leaving behind his wife viz., Rimisha and herself as his lawful legal heirs.

4.According to the petitioner, her son Prijesh Tharayil Jayaprakash and daughter-in-law Rimisha, jointly inherited the property, each entitled to $2/6^{\text{th}}$, $1/6^{\text{th}}$ share and $3/6^{\text{th}}$ share respectively.

5.The petitioner further submits that she along with Prijesh Tharayil Jayaprakash and the daughter-in-law are in absolute joint possession and ownership of the property paying all the public dues and demands and free of all encumbrances.

6.According to the petitioner, she is now 67 years old and decided to settle her $3/6^{\text{th}}$ undivided share in the property to her son Prijesh Tharayil Jayaprakash enabling him to enjoy the same as absolute owner and executed a Settlement Deed and presented the same for registration before the first respondent.

7.According to the petitioner, the first respondent refused to accept the certified copy of the Sale Deed dated 29.03.1993 and refuse to register the Settlement Deed stating that the "Original document not produced"



8. According to the petitioner, she had clearly explained to the first respondent that the said original Sale Deed dated 29.03.1993 is under the custody of her daughter-in-law Rimisha, who is not in good terms with her and therefore she produced the certified copy of the Sale Deed along with Encumbrance Certificate for the period from 01.01.1975 to 19.07.2021, as there are no encumbrances in the property.

9. The petitioner submits that the first respondent without applying his mind mechanically refused to register the document which he is bound to register under the provisions of the Registration Act and the first respondent has no power or Authority in law to insist the production of original parent documents and refuse the registration on the said ground.

10. According to the petitioner, the first respondent can refuse to register the document only under Section 71 of the Registration Act and not on any other grounds.

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

12. On going through the said documents and the typeset of papers, it is seen that the petitioner aged 67 years and therefore she decided to settle her 3/6 undivided share in the property to her son Prijesh Tharayil Jayaprakash, enabling him to enjoy the same as the absolute owner, she prepared a Settlement Deed and presented the same for registration before the first respondent. The first respondent refused to register the document stating that the original Sale Deed dated 29.03.1993 registered as Document No.810 of 1993 before the SRO, Thiruvottriyur in favour of T.K.Jayaprakash has to be produced. The said original document is under the custody of Rimisha, who is the daughter-in-law of the petitioner and she refused to hand over the Sale Deed for registration. However, the petitioner explained the same to the first respondent and she produced the certified copy of the Sale Deed along with Encumbrance Certificate for the period from 01.01.1975 to 19.07.2021 as there are no encumbrances in the property. This Court in MANU/TN/1070/2021 reported in 2021 (2) CTC 526 held that Sub-Registrar if he has any doubt about the documents or the copy of the parent document, the same can very well be verified with the



documents available in his office and the genuineness of the certified documents can be ascertained.

13. In view of the above facts and circumstances of the case and the submission made by the petitioner, this Court is of the view that the respondents shall peruse the certified copy of the Sale Deed and register the documents without any further delay and the impugned Refusal Check Slip dated 30.07.2021 is hereby set aside and the first respondent is directed to register the document presented by the petitioner if it is otherwise in order, without insisting on production of the original parent document in terms of law as laid down by this Court in various judgments, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

gba/pam

To

1. The Sub-Registrar
Tiruvottriyur, Sub-Registrar Office.
Thiruvottriyur,
Chennai - 600 019.
2. The Inspector General of Registration,
Office of the Inspector General of Registration,
Santhome, Chennai - 600 004.

+2ccs to Mr. Ralph V. Manohar, Advocate, S.R.No.48879
+1cc to the Government Pleader, S.R.No.49768

W.P.No.20239 of 2021
and W.M.P.No.21493 of 2021

AK-II(CO)
RLP(13/10/2021)