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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2021

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No. 23425 of 2021

Ultra Ready Mix Private Limited,  
Represented by its Chief Executive Officer,  
K.R. Ananth Kumar  
Having its registered Office at  
No.25, Trichy Road,  
Kannampalayam Post,  
Sulur, Coimbatore-641 402.

...Petitioner

Versus

- 1.The Inspector General of Registration,  
Santhome High Road,  
Pattinampakkam,  
Chennai - 600 028.
- 2.The Sub Registrar,  
Pollachi,  
Coimbatore District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 2nd respondent herein to admit and register the sale certificate (for immovable property) No.Edel ARC/589/2021-22, dated 03.06.2021 executed by the Authorized Officer M/s.Edelweiss Asset Reconstruction Company Private Limited in favour of the petitioner herein under SARFAESI Act, 2002 and in exercise of powers conferred under Section 13 r/w Rule 6 of Security Interest (Enforcement) Rules, 2002 with respect to land comprised includes land measuring an extent of 18.51 cents together with a building thereon having a built up area of 16,148 sqft., named as Vasanth Plaza at Door No.34/1 and 36 of Imam Khan Street and Vellarar Street comprised in T.S.Nos.17 Part, 18, 19, 20, 23, 24 & 25, Ward No.6, Pollachi Town, Pollachi Taluk, Coimbatore District, without insisting for the production of originals of the title deeds.



For Petitioner : Mr.P.Sengottuvel  
For Respondents : Mr.Yogesh Kanndasan  
Government Advocate

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O R D E R

The grievance of the petitioner is that he could complete all the formalities to get the sale certificate in their name presented for registration before the 2nd respondent/Sub Registrar, at that time, the Government of Tamil Nadu declared lockdown. Due to the second wave of COVID-19 pandemic situation, the authorized representative of the secured creditor namely M/s.Edelweiss ARC Pvt. Ltd., could not travel from Mumbai to Coimbatore. Therefore, the petitioner could not produce the document for registration before the second respondent. While so, the petitioner herein represented to M/s.Edelweiss ARC Pvt. Ltd., to hand over all the original title deeds in favour of Maheshwari, Arulmozhi and Kathirvel - Guarantors of the aforesaid Company (in Liquidation) at the time of registration of sale certificate. It is submitted that M/s.Edelweiss ARC Limited, represented to the petitioner that all the original title deeds with respect to all the properties mortgaged by the aforesaid company (in liquidation) are in custody of DRT-Coimbatore, in the recovery proceedings initiated by the State Bank of India and they would hand over the same immediately on the receipt of the same from DRT-Coimbatore after the closure of the said proceedings. Thereafter, the petitioner made all arrangements to get the sale certificate presented for registration before the second respondent on 08.10.2021. However, the second respondent has refused to receive the sale certificate for registration for want of production of the original title deeds in favour of the original owners who offered the property as personal security with the State Bank of India. In the said circumstances, when the petitioner presented the documents relating to the property for registration, the second respondent/Sub Registrar has been refused to register the same insisting upon the production of original parent document.

2. In one such attempt to register the sale certificate, the petitioner presented a certified copy of the original documents of mortgaged property in favour of the petitioner executed by the Authorized Officer No.Edel ARC/589/2021-22, dated 03.06.2021 in favour of the petitioner under SARFAESI Act, 2002. However, the second respondent/Sub Registrar has refused to register the said document. The refusal of the respondent is only on the basis of the fact that the parental document has not been produced for perusal of the Authority.



3. On enquiry, the petitioner was informed that the Inspector General of Registration, Chennai, had issued a circular dated 15.09.2010, which requires the production of original title deeds to the Authority concerned for the purpose of registration. However, according to the petitioner, this Court has consistently held that the Registering Authority cannot insist on production of original title deeds as a matter of precondition for registration of the documents. According to the Courts, such pre-condition is not provided in the statute.

4. Mr.P.Sengottuvel, who has entered appearance on behalf of the petitioner, would reiterate the above facts and also would draw the attention of this Court to three decisions of this Court, which read as under:-

(i) 2011-2-L.W.648 (K.S. Vijayendran v. The Inspector General of Registration, Chennai, and others). The observation of the learned Single Judge of this Court reads as under:-

"10. None of the provisions of the Act or the Rules contemplate the Registrar to require the party appearing before him for presenting document to produce the original title deeds relating to the property so as to satisfy himself about the ownership of the executant in respect of the property sought to be executed."

(ii) 2015 Online SCC Mad 5868, Lakshmi Ammal v. The Sub Registrar, Office of the Sub Registrar, Villivakkam, Chennai and Others.

In the above case also, the learned Single Judge of this Court has clearly held that insistence on production of original title deeds through the circular dated 25.11.2012 was found to be not having any statutory force, in view of the absence of any provision in the Act. The observation of the learned Single Judge is extracted hereunder:-

"4..... Further, the petitioner also produced the encumbrance certificate from 1987 till date showing nil encumbrance. When the petitioner insisted upon a written order, the impugned order was passed by relying upon a circular issued by the Inspector General of Registration, dated 25.11.2012 and stated that since the petitioner did not produce the original sale deed, dated 07.09.2011, the settlement deed cannot be admitted for registration. Challenging the same, the present Writ Petition has been



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filed. ....10. For the reasons stated above, I am of the considered view that the impugned order of the first respondent dated 05.09.2012 is liable to be set aside and accordingly, set aside and the writ petition stands allowed. The first respondent is directed to register the deed of release on presentation by the petitioner in respect of the property in question. He is directed to register the document on the date of presentation without making the parties to run from pillar to post. He is also directed to do so on receipt of the order copy from this Court or on production of the same. No order as to costs. Consequently, connected miscellaneous petition is closed."

(iii) 2018 Online SCC Mad 3898, C.Moorthy v. The Sub Registrar, Aruppukottai. In the above decision, yet another learned Single Judge of this Court has clearly held as under:-

"6. The learned Counsel for the respondent fairly conceded that the legal position reiterated by this Court in several judgments have not been followed and that the Registering Officer in this case has no authority to return the document for production of original document of title based on the circular, as the same circular was earlier considered by this Court in the judgment cited by the learned Counsel for the petitioner. As held by this Court earlier, there is no provision in the Registration Act, 1908 of the Tamil Nadu Registration Rules, 1983, which confers power to the Registering Officers to insist production of original parental document. The Executive orders cannot be issued contrary to Rules framed in exercise of power conferred any statute. In this case production of parent document is not possible without redemption of mortgage."

5. The learned counsel therefore would submit that the issue as to whether the original title deeds should be produced for registration by the party concerned or whether the Registering Authority can insist on production of original title deeds as a pre-condition for registration is no more res-integra.



6. Mr.Yogesh Kannadasan, learned Government Advocate, who has entered appearance on behalf of the respondents, would submit that recently a learned single Judge of this Court in W.P.(MD) No.16768 of 2020, dated 26.11.2020, had taken a different view and he has produced a copy of the unreported order of the learned single Judge. He would rely upon the paragraph Nos.8 and 9 of the said order, which are extracted hereunder:-

"8.This Court has already considered the issue in W.P. (MD) No.2657 of 2020, wherein, it is held that there are certain occasions where the original documents may not be available with the executor of the documents and that if there is any reasonable doubt about the identity of the person executing the documents, the original documents can be dispensed with. The entire circular issued on 25.04.2012 cannot be questioned. In fact, the circular issued by the Inspector General of Registration should be appreciated, as in order to avoid duplication of registration and fraudulent registration of the very same property, it has been issued. The contention of the respondent that the extract mentioned by him supra cannot be read in isolation and it got to be read as a whole.

9. Apart from the directions given by this Court in W.P. (MD) No.2657/2020 dated 19.02.2020, this Court is of the view that if the Sub Registrar has got any doubt about the documents, copy of the parent documents, which is available in the office of the Sub Registrar, can very well be verified about the genuineness of the certified documents produced by the petitioner. Even assuming that the executor is a genuine person and producing fake documents, it is open to the Sub Registrar to refuse to register the document. Hence, this Court is of the view that the condition may be included in the Circular by way of amendment stating that the Sub Registrar will have to verify the records of the parent document from their office or from the office, where the said document is obtained and produced, as the Sub Registrars office have been bifurcated many times, scrutinize the same and after





10. With the above observations, the Writ Petition is disposed of and the respondents are hereby directed to register the documents presented by the petitioner for registration, if the document is otherwise in order, without insisting on the production of original parent document, in terms of the law laid down by this Court in the three decisions as cited supra. No costs.

Sd/-  
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

msm

1.The Inspector General of Registration,  
Santhome High Road,  
Pattinampakkam,  
Chennai - 600 028.

2.The Sub Registrar,  
Pollachi,  
Coimbatore District.

+1cc to the Government Pleader Sr No.57664

W.P.No. 23425 of 2021

PCH (CO)  
PR (23/11/2021)