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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2021

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THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.NO.23253 OF 2021 &
WMP NO.24541 OF 2021

Selvaprakasam

...Petitioner

Vs.

The Sub Registrar,
Office of Sub Registrar,
Dharapuram,
Thiruppur District

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of order of refusal check slip in Refusal No.RFL/Dharapuram/67/2021 dated 21.10.2021 passed by the respondent to register the document of sale deed dated 20.10.2021 presented by the petitioner herein

For Petitioner : Mr.N.Ponraj

For Respondent : Mr.Yogesh Kannadasan
Government Advocate

O R D E R

With consent on either side, the main Writ Petition itself is taken up for final disposal at the admission stage.

2. The present Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records of order of refusal check slip in Refusal No.RFL/Dharapuram/67/2021 dated 21.10.2021 passed by the respondent to register the document of sale deed dated 20.10.2021 presented by the petitioner herein.

3. The case of the petitioner is that the petitioner's father, namely Subramani and his sisters are in possession of agricultural land measuring about 7.47 acres in New S.F.No.634/2 (Old S.F.No.65) in Kongur village of Dharapuram Taluk in Tiruppur District. The said property belongs to one Deivanaiammal, who is the mother of petitioner's father and the



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said Deivanaiammal, obtained the property by virtue of a settlement deed in Doc.No.22 of 1953 registered on the file of the respondent and after her demise, the petitioner inherited the property. Since there was a property dispute between the petitioner's father and his sisters, in order to give quietus to the issue, petitioner and his younger brother intended to purchase the property from the father of the petitioner and for the same, a document of sale deed dated 20.10.2021 was prepared and presented for registration with all the requirements on 21.10.2021, but the same was refused to register for non-production of original document. The original document in Doc.no.22 of 1953 has been mortgaged with Dharapuram Co-operative Urban Bank Ltd., and the same has been registered as Doc.No.4007 of 2003. A loan of Rs.1,00,000/- was obtained, now the due is around Rs.4.5 lakhs, while so, for want of money, the petitioner was not able to redeem the property and original document by paying the mortgage amount.

4. It is the further case of the petitioner that when the petitioner resorted to the respondent by narrating the above facts and requested to verify the copy of the original document in his office by stating that the non-production of original document will not be a bar to register the present document, as per the Law laid down by this Court reported in 2018 SCC Online Mad 3898 (C.Moorthy Vs. Sub Registrar, Aruppukottai and in W.P. (M.D) No.7175 of 2021, however without considering the same, the respondent issued a refusal check slip in RFL/Dharapuram/67/2021 dated 21.10.2021. As against the same, the petitioner has come up with this petition.

5. The learned counsel for the petitioner submits that the registering officer has no power to return the document for non-production of original document, as the Registration Act, 1908 and the Rules framed thereunder do not contemplate production of the original documents for registering any subsequent deed of conveyance.

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 respondent to consider the prayer of the petitioner and eight weeks time may also be granted to the respondent to consider the same.

7. Having regard to the limited scope of the prayer that is now sought for in this Writ Petition before this Court and taking into account the submissions made on either side, without expressing any opinion on the merits of the case pleaded by the petitioner in the present writ petition, the Writ Petition is disposed of, with a direction to the respondent to consider the



petitioner's documents for registration by holding an enquiry after issuing notice to the parties concerned and if any case is made out by the petitioner, the authorities are directed to pass appropriate orders, on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. However, it is made clear that this order will not grant any right of title to the petitioner. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

ssd

To

The Sub Registrar,
Office of Sub Registrar,
Dharapuram,
Thiruppur District

+1cc to Mr.N.Ponraj, Advocate, S.R.No.55998

+1cc to the Government Pleader, S.R.No.56625

W.P.No.23253 of 2021 &
WMP No.24541 of 2021

SSV(CO)
RVM(23/11/2021)