



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED : **26.02.2021**

ORDER PRONOUNCED : **22.03.2021**

CORAM :

THE HONOURABLE MR.JUSTICE **V.PARTHIBAN**

W.P.(MD) No.2577 of 2021

S.Samsudheen

.. Petitioner

vs

1.The Sub Registrar,
Melapalayam,
Palayamkottai Taluk,
Tirunelveli District.

2.S.Syed Meeran

.. Respondents

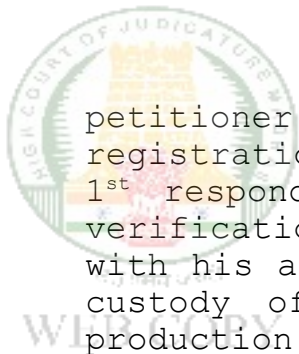
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for records relating to the impugned refusal check slip of the 1st respondent dated 22.12.2020 and quash the same and consequently direct the 1st respondent to register the sale deed dated 22.12.2020 executed by the 2nd respondent in favour of the petitioner without insisting the original document within the time fixed by this Court.

For Petitioner	:	Mr.H.Arumugam
For R1	:	Mr.K.Sathiya Singh Additional Government Pleader
For R2	:	Mr.S.Packiyamuthu

ORDER

The case of the petitioner is that his father, Syed Meeran Bakker Mydeen, has executed a registered settlement deed, dated 31.03.1954, settling the property in his favour along with his brothers, namely, Syed Meeran, the 2nd respondent herein and Mohideen Pillai, another brother. The said Mohideen Pillai has executed a settlement deed dated 16.04.2013 settling his properties including the 1/3rd share of the property in favour of his wife and sons. The above property has been shown as 2nd schedule in the settlement deed dated 16.04.2013. According to the petitioner, as on date, the 2nd respondent, the wife and sons of his brother, namely, Mohideen Pillai are the joint owners of the property and the possession is also being enjoyed jointly by them, as on date.

2.While so, the 2nd respondent has no issues and he was in need of some money for his medical expenses and therefore, he offered to sell his 1/3rd share, which was accepted by the petitioner and the



petitioner in that regard approached the document writer for registration of the documents and at this, he was informed that the 1st respondent would ask him to produce the parent document for verification. According to the petitioner, the parent document was with his another brother, namely, Mohideen Pillai and now is in the custody of his wife and his children. A request was made for production of original parent document for the purpose of registration, but the legal heirs of the said Mohideen Pillai are not inclined to produce the parent document.

3. In the meanwhile, the 2nd respondent has sold his 1/3rd share to the petitioner and executed a sale deed dated 22.12.2020 and the same has been presented for registration. The 1st respondent however refused to register the same on 22.12.2020 and rejected the document on the ground that the original parent document had not been produced. As against the refusal slip dated 22.12.2020, the petitioner is before this Court.

4. The learned counsel appearing for the petitioner would submit that there was no necessity for producing the original parent document for the purpose of registration and such requirement is not to be insisted upon by the Registering Authority as held by the Court. He would straight away draw the attention of this Court to the order passed by this Court in **(2018) 0 Supreme Court (Mad) 3046 (M. Abdul Azeez Vs. Joint Sub Registrar)**. This Court had an occasion to deal with the similar issue. While considering the issue, this Court had passed a detailed order in consideration of the rules and finally concluded as under:-

"13. In this Case, admittedly, the original of the sale deed is not available. But, however, it appears that the petitioner has a certified copy of the sale deed, which was issued to him on 09.05.1990 and it was accepted and endorsed by the Civil Courts in respect of the pending litigations. Moreover, in regard to the petitioner's title, the Registering Authority can always call for any other documents available in his possession in order to verify the title credentials of the property covered under the instrument presented for registration.

14. When the original title deed is not available, there has to be some other method for the Registering Authority to verify the genuineness of the title of the party to the property covered under the instrument presented for registration. All that required by the Registering Authority is to make a basic enquiry into the claim of the petitioner in regard to the title of the property, which is covered under the settlement deed submitted for registration. It is always open to the Registering Authority to verify such of those documents to be presented by the petitioner and ascertain the title



claim of the petitioner and take a decision in this regard on being satisfied about the claim of the petitioner.

15. This Court, from the above, is of the clear view that even as per the observations of the Honourable Division Bench in the above writ appeals, it is open to the party concerned to produce relevant documents to substantiate the claim of ownership to the property, which is covered under the instrument presented for registration. Therefore, this Court directs the petitioner to submit whatever documents, which are available with him, to the Registering Authority and on production of those documents by the petitioner, the Registering Authority is directed to conduct an enquiry into the genuineness of the claim of the petitioner in regard to his title, without insisting upon the production of the original sale deed, which is the subject matter of the settlement deed and the Registering Authority being satisfied with the enquiry being made into the claim of the petitioner, they shall proceed to register the settlement deed presented by the petitioner for registration. The petitioner is directed to submit the necessary documents in this regard within a period of one week from the date of receipt of a copy of this order and the respondent is directed to take a decision and pass appropriate orders, within a period of two weeks thereafter."

5. According to the above decision, this Court has held that it is always open to the Registering Authority to call for any documents in possession of the petitioner to verify his title credentials to the property and the authority in this connection can very well undertake a basic enquiry and ultimately, if he is satisfied that even in the absence of any original parent document, the title has been established by the transferrer, it is open to him to go ahead with the registration. But it is certainly not open to the Registering Authority to summarily refuse to register the document only on the ground that the original parent document had not been produced.

6. The issue raised in this writ petition being directly covered by the ruling of the above decision, the impugned refusal check slip of the 1st respondent dated 22.12.2020 is hereby set aside and the matter is remanded back to the 1st respondent to follow the decision as extracted above, wherein, detailed observations have been made by this Court. Accordingly, this Court is inclined to allow this writ petition with the following directions:-

The 1st respondent is directed to process the registration of the documents without insisting for the production of original parent document or title deed from the petitioner and in that process, the 1st respondent is



at liberty to undertake an enquiry, for him to be satisfied with the *bona fides* of the petitioner's claim. The registration process is directed to be completed within two weeks from the date of receipt of copy of this order.

7.The writ petition is allowed. No costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

mm

To

The Sub Registrar,
Melapalayam,
Palayamkottai Taluk,
Tirunelveli District.

+1 CC to M/s.SPL GP (SR-13000[F] dated 23/03/2021)

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-13470[F] dated 24/03/2021)

W.P. (MD)No.2577 of 2021
22.03.2021

GS (17.05.2021) 4P 4C