



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.08.2021

CORAM

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.13596 of 2021

M.Durga Devi

... Petitioner

Vs.

The Joint Sub-Registrar,
Office of Joint Sub-Registrar No.1,
Trichy.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, thereby, call for the records of the respondent in Refusal Check Slip in RFL/1 Num. Join Sub-Registrar Trichy/136/2021 dated 26.07.2021 and quash the same as illegal and arbitrary in the light of the orders passed by this Hon'ble in W.P(MD) No.19745 of 2020 dated 11.02.2021 and in consequence thereof direct the respondent to receive and register the sale deed executed by the petitioner in favour of Mohanarengan dated 26.07.2021, without insisting for production of original parental deed.

For Petitioner : Mr.P.Ganapathi Subramanian

For Respondent : Mr.R.Baskaran

Counsel for State

ORDER

The petitioner challenges a Refusal Check Slip, dated 26.07.2021 by which the respondent refused to register the sale deed presented by the petitioner for registration.

2.The petitioner states that the property comprised in Plot No.22 of J.K.Nagar, bearing S.F.No.18/13 of Piratiyur Village, Srirangam Taluk, Trichy District, originally belonged to one Venkatesan. The petitioner's mother, Jothi, purchased the same from the said Venkatesan under registered sale deed, dated 05.02.2003. According to the petitioner, her mother Jothi died intestate on 17.02.2010 and her father Mahendran also died intestate on 12.03.2016. Consequently, their three daughters, including the petitioner herein, inherited the mother's estate. The petitioner states that each of the sisters decided to apportion the property between themselves. Pursuant thereto, the petitioner decided to sell her 1/3rd portion. For such purpose, a sale deed was executed and presented for registration. However, by the impugned check slip, the respondent refused to register the same on the ground that the original parent document had not been produced. The learned counsel for the petitioner refers to and relies upon the earlier order of this Court in ***Sivanadiyan Vs. Sub-Registrar, Pudukottai,***



Pudukottai District, reported in **2021 (2) CTC 526**. On such basis, he contends that the impugned order is not sustainable.

3.Mr.R.Baskaran, learned counsel for the State, submits that the Registration Department calls for an explanation with regard to the original parent documents so as to ensure that the relevant property has not been mortgaged or subject to any other encumbrance. In addition, he submits that the relevant revenue documents, such as patta, may be submitted in such circumstances along with an explanation for the non availability of the original parent document.

4.In view of the consistent decision taken in earlier judgments of this Court to the effect that a registration cannot be refused for non production of the original parent document, the impugned order cannot be sustained. Such impugned order cites only such non production of the original document as the reason for refusal. Consequently, the impugned order dated 26.07.2021 is quashed. At the same time, it must be noted that the original parent document is called for so as to ascertain whether the property is subject to a mortgage or other encumbrance. A party submitting a document for registration should, therefore, provide an explanation for non production of the original parent document and also submit corroborating documents in such regard.

5.Accordingly, W.P.(MD).No.13596 of 2021 is allowed. The petitioner is permitted to re-present the relevant document for registration. Such re-presentation shall be done within a period of two weeks from the date of the receipt of a copy of this order. Upon receipt thereof, the respondent is directed to consider the request for registration by taking into account the judgment reported in **2021 (2) CTC 526** as also the observations set out above. The petitioner is also permitted to submit an explanation with regard to the non production of the original document as also any other document to corroborate her interest in the property. There is no order as to costs.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TM

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.



To

The Joint Sub-Registrar,
Office of Joint Sub-Registrar No.1,
Trichy.

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W.P (MD) No.13596 of 2021
23.08.2021

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