



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.09.2021

CORAM

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.16649 of 2021

and

W.M.P(MD) .No.13511 of 2021

WEB COPY

A.Rajangam

... Petitioner

Vs.

The Sub Registrar,
Office of the Sub Registrar No.1,
Madurai South,
Madurai District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the respondent dated 31.08.2021 in proceedings RFL/1 quash the same, as the same arbitrary, ultravires, contrary to the provisions of Indian Registration Act, and consequentially direct the respondent to register the deed of partition deed dated 31.08.2021 presented by the petitioner and release the same.

For Petitioner : Mr.R.G.Shankar Ganesh
For Respondent : Mr.K.S.Selva Ganesan,
Counsel for State.

ORDER

The petitioner challenges a refusal check slip dated 31.08.2021 by which the petitioner was called upon to re-submit the document along with the original parent documents bearing Document Nos.2461/1967 and 3386/1973.

2. The petitioner states that the property bearing RS.Nos.72/6, 16/2D, 73/1A, 72/4 and 82/2 belongs to his family. Several sale deeds are cited in support of the claim to title over the property. The petitioner states that a partition deed was executed by and between the members of his family. Such partition deed was presented for registration before the respondent on 31.08.2021. Upon such presentation, it is stated that the impugned refusal check slip was issued by directing the petitioner to produce the original documents bearing Nos.2461/1967 and 3386/1973.

3. In support of the contention that the impugned order is not sustainable, the petitioner relies upon earlier orders of this Court, including the order dated 11.02.2021 in W.P.(MD).No.19745 of 2020. On such basis, it is stated that the impugned order is liable to be quashed inasmuch as the registration authorities do not have



the authority to decline registration of a document on the ground of the non-production of the original parent documents.

4. Mr.K.S.Selva Ganesan, learned counsel for the State, accepts notice on behalf of the sole respondent. He submits that registration authorities are entitled to ask for the original parent documents. In case the party presenting the document for registration does not have the original parent documents, the relevant circular mandates the procedure to be followed. Therefore, he submits that the petitioner may re-submit the documents after complying with the requirements of the relevant circular in such regard.

5. Registration authorities call for the original parent documents so as to ascertain whether the executant of the document *prima facie* has the authority to execute such document. In addition, by calling for the production of the original parent documents, it would be possible to ascertain whether the relevant property is subject to a mortgage or other form of encumbrance. In the event of inability of the person presenting the document to produce the original parent documents, such person should provide an explanation as to why it is not possible to do so. Typically, a copy of the police complaint in such regard and the paper publication are enclosed. In addition, in terms of the relevant circular, the party concerned may produce the patta in respect of the property and other corroborating documents so as to assure the registering authority that there are legitimate reasons for the non-production of the original parent document.

6. For reasons set out above, the impugned order is not liable to be interfered with except to the limited extent indicated herein. Such impugned order indicates that it is open to the petitioner to re-submit the document for registration by producing the original parent documents. In case the petitioner does not have the original parent documents, the petitioner is permitted to produce other relevant documents such as the patta as also the police complaint and paper publication, if available. The petitioner is permitted to re-submit the document for registration by enclosing such relevant documents within a period of two (2) weeks from the date of receipt of a copy of this order. Upon receipt thereof, the respondent is directed to re-consider the matter without insisting on the production of two original parent documents provided the explanation of the petitioner and the other corroborating documents are satisfactory. Upon receipt of the re-submitted document, the respondent herein is directed to either register the relevant partition deed or issue a reasoned communication indicating the reasons for the refusal to do so. In any event, the entire exercise shall be concluded within a period of two (2) months from the date of receipt of the re-submitted document.



7. W.P.(MD).No.16649 of 2021 is disposed of on these terms without any order as to costs. Consequently, W.M.P(MD).No.13511 of 2021 stands closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg/LM

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 Sub Registrar,
Office of the Sub Registrar No.1,
Madurai South,
Madurai District.

+1 CC to M/s.R.G.SHANKAR GANESH, Advocate (SR-29605[F]
dated 20/09/2021)

+1 CC to M/s.SPL. GP (SR-29585[F] dated 20/09/2021)

**W.P(MD)No.16649 of 2021
17.09.2021**

GC(27.09.2021) 3P 4C