



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.10.2021

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THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.18175 of 2021

WEB COPY

A.Chinnalagu @ Chinnalagan

... Petitioner

Vs.

The Sub Registrar,
Manapparai,
Trichy District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned return check slip passed by the respondent in his proceedings in RFL/Manapparai/4/2021 dated 23.09.2021 and quash the same as illegal and consequently direct the respondent to register the sale deeds dated 23.09.2021 presented by the petitioner for the registration and release the same to the petitioner as per the time frame fixed by this Court.

For Petitioner : Mr.J.Jeyakumaran

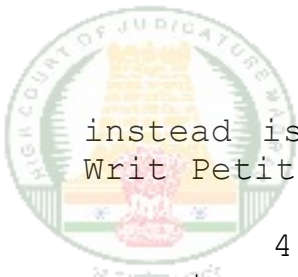
For Respondent : Mr.K.S.Selva Ganesan,
Counsel for State

ORDER

The petitioner assails a refusal check slip dated 23.09.2021 by which the respondent refused to register a sale deed presented by the petitioner for registration.

2. The petitioner traces title to the property through a partition deed dated 12.12.1975. The petitioner asserts that the "B" Schedule property under the said partition deed was allotted to the petitioner. Pursuant thereto, it is stated that the petitioner obtained a separate patta in respect of the property in Survey No.104 under Patta No.1167 and in respect of the property bearing Survey No.105/1 under Patta No.244.

3. The petitioner decided to convey the property to one M.Devendran and prepared and presented two (2) separate sale deeds for registration before the respondent on 23.09.2021. In spite of remitting the requisite stamp duty and registration fees, it is stated that the respondent refused to register the documents and



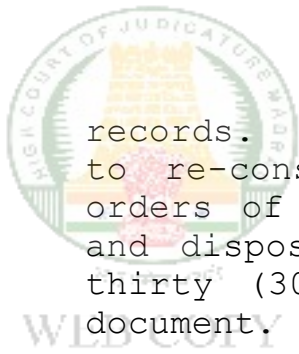
instead issued the impugned refusal check slip. By the present Writ Petition, the said refusal check slip is assailed.

4. Mr.K.S.Selva Ganesan, learned counsel for the State, accepts notice on behalf of the sole respondent. He submits that the respondent may be directed to re-consider the matter after taking into account earlier orders of this Court in this regard.

5. On perusal of the impugned refusal check slip, it is evident that only one reason is cited therein for refusing to register the document. Such reason is that the original parent document has not been submitted for scrutiny. The original parent document is called for by the registration authorities for the purpose of *prima facie* assessing whether the executant of the document is entitled to do so and also to verify whether a mortgage by deposit of title deeds or any other encumbrance was created in respect of the relevant property. In a sense, therefore, it is intended to prevent a fraud or irregularity in course of registration. However, it should be noted that there could be legitimate reasons as to why a person is unable to produce an original parent document. Consequently, registration should not be refused solely because the original parent document is not available. It is in such context that the Inspector General of Registration has also issued circulars on this issue. Even such circulars enable the registration of a document although the original parent document relating thereto is not available.

6. In the case at hand, the petitioner has stated that he is unaware of the whereabouts of the original partition deed because the same was in the custody of his father who is now deceased. By its very nature, in the context of a partition deed, it is possible that the individual allottees may not have the original unless such document was executed in counterparts. The petitioner has also produced a copy of the patta pertaining to each survey number and the extract of the "A" Register. As such, there appears to be sufficient corroborating material. However, these aspects should be taken into account by the respondent herein and no definitive conclusions are drawn herein.

7. For reasons set out above, the impugned order is unsustainable inasmuch as the respondent has declined to register solely on the ground of non-production of the original parent document by a terse order. Consequently, the impugned order is quashed. As a corollary, the matter is remitted for re-consideration by the respondent. For such purpose, the petitioner is permitted to re-submit the relevant documents within a period of two (2) weeks from the date of receipt of a copy of this order. The petitioner is also permitted to provide an explanation and



records. Upon receipt thereof, the respondent herein is directed to re-consider the matter by taking into account the earlier orders of this Court as well as the observations set out herein and dispose of the request for registration within a period of thirty (30) days from the date of receipt of the re-submitted document.

8. Accordingly, W.P.(MD).No.18175 of 2021 is disposed of on these terms without any order as to costs.

Sd/-

Assistant Registrar (AD-I)

// 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,
Manaparai,
Trichy District.

+1 CC to M/s.SPL.GP (SR-31960[F] dated 11/10/2021)

+1 CC to M/s.J.JEYAKUMARAN, Advocate (SR-31806[F] dated 08/10/2021)

**W.P(MD)No.18175 of 2021
07.10.2021**

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