



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.10.2021

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P (MD) Nos.18315 and 16075 of 2021

and

W.M.P (MD) .No.15140 of 2021

W.P (MD) No.18315 of 2021

P.V.Dharmalingam

... Petitioner

Vs.

The Sub-Registrar,
Melur,
Melur Sub-Registration Office,
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, to call for the records relating to impugned CHECK SLIP-6 dated 19.08.2021 and to quash the same as illegal and in consequence thereof, direct the respondent to register the sale deed in respect of landed properties found in the sale deed for temporary registration No. in TP/104460691/2021 dated 17.08.2021 either in petitioner's name or his person or whole or in part without insisting the production of original parent document.

For Petitioner : Mr.M.Thirunavukkarasu

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

W.P (MD) No.16075 of 2021

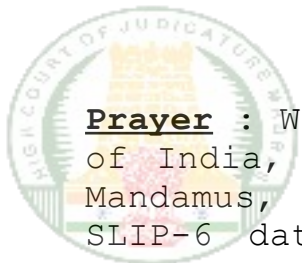
Paneer Mohammed,
Represented through its Power Agent,
Balakrishnan

... Petitioner

Vs.

The Sub-Registrar,
Melur,
Melur Sub-Registration Office,
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, to call for the records relating to the impugned CHECK SLIP-6 dated 19.08.2021 and to quash the same as illegal and consequently direct the respondent to register the sale deed in respect to the subject properties vide temporary registration No.in TP/104460691/2021 dated 17.08.2021 either in the name of the proposed purchaser or his person or whole or in part without insisting the production of original parent document.

For Petitioner : Mr.C.M.Arumugam
For Respondent : Mr.K.S.Selva Ganesan,
Counsel for State.

COMMON ORDER

These two Writ Petitions are filed by the vendor and purchaser, respectively, assailing a refusal check slip issued on 19.08.2021.

2. The vendor states that he is the owner of the relevant property. In support of such submission, copies of title documents as well as revenue records are cited. According to the vendor, the original parent documents may have been misplaced when the vendor visited a photocopying shop to take copies of such original parent documents. Therefore, a complaint has been lodged by the vendor with the Commissioner of Police, Madurai City in relation to the loss of the original parent documents.

3. Both the vendor and the purchaser submit that the recital in the draft sale deed to the effect that the original parent documents were handed over to the purchaser was made inadvertently and that they would take necessary steps to delete the said recital.

4. The respective petitioner assails the impugned refusal check slip on the ground that registration authorities cannot cite non-production of the original parent documents as a reason to refuse registration. Reliance is placed on earlier orders of this Court in W.P(MD).No.19745 of 2020 to substantiate the contention that registration should not be refused on the ground of non-production of the original parent documents. It is also submitted in this regard that the circular cited by the Sub-Registrar cannot override statutory provisions to the contrary.

5. Mr.K.S.Selva Ganesan, learned counsel for the State, appears on behalf of the sole respondent. He submits that the matter may be directed to be re-considered by the respondent. He also submits that the respective petitioner should provide an explanation and submit other documents such as the relevant patta,



the police complaint and the like so as to explain the non-production of the original parent document.

6. Although registration authorities are not entitled to decide questions of title, original parent documents are called for so as to *prima facie* examine the right of the executant to execute the relevant document. In addition, such documents are called for so as to ascertain whether there is a mortgage or other form of encumbrance over the relevant property. At the same time, it should be noted that there could be legitimate reasons for non-production of the original parent document. Therefore, registration should not be refused solely on the ground of non-production of the original parent document. Indeed, even the circulars issued by the Inspector General of Registration envisage that there could be legitimate reasons for non-production of the original parent document. For all these reasons, the impugned refusal check slip is unsustainable. Therefore, the refusal check slip is quashed.

7. As a corollary, the matter is remitted to the respondent for re-consideration. For such purpose, the purchaser, who has the document in his possession, is permitted to re-submit the same along with supporting documents to the respondent for registration. Such re-submission shall be made within a period of two (2) weeks from the date of receipt of a copy of this order. Upon receipt thereof, the respondent herein is directed to re-consider the matter by taking into account the observations contained in this order and either effect the registration or issue a reasoned order indicating the reasons for refusal to do so. This process shall be completed within a period of fifteen (15) days from the date of receipt of the re-submitted document.

8. Accordingly, W.P(MD)Nos.18315 and 16075 of 2021 are disposed of on these terms without any order as to costs. Consequently, W.M.P(MD).No.15140 of 2021 stands closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg/lm/nsr

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,
Melur,
Melur Sub-Registration Office,
Madurai District.

+1 CC to M/s.M.THIRUNAVUKKARASU, Advocate (SR-32605[F] dated
26/10/2021)

+1CC to M/s.C.M.ARUMUGAM, Advocate (SR-32606) dated 26-10-2021

W.P(MD)Nos.18315 and 16075 of 2021
22.10.2021

RK (01/11/2021) 4P 4C