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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.NO.5716 OF 2022

AND

WMP NO.5806 OF 2022

S.Thara Bai

... Petitioner

versus

1. The Inspector General of Registration,
Santhome High Road,
Mylapore,
Chennai - 600 004.

2. The Sub Registrar,
Sembium,
Chennai.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus calling records relating to the impugned Refusal Check Slip Refusal No.RFL/Sembium/3/2022 dated 18/02/2022 issued by the 2nd respondent and quash the same and consequently direct the 2nd respondent to register the document presented by the petitioner for registration without insisting upon the production of the original parent document.

For Petitioner : Mr.G.Ilangovan

For Respondents : Mr.Yogesh Kannadasan, SGP

O R D E R

The petitioner has filed this petition to issue a Writ of Certiorarified Mandamus to call for the records relating to impugned Refusal Check Slip Refusal No.RFL/Sembium/3/2022 and



quash the same and consequently direct the 2nd respondent to register the document presented by the petitioner for registration without insisting upon the production of the original parent document.

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2. Mr.Yogesh Kannadasan, learned Special Government Pleader takes notice for the respondents. In view of the limited relief sought for in this petition and on the consent expressed by the learned counsel appearing on either side, this petition is taken up for final disposal.

3. The case of the petitioner is that she is the absolute owner of the land to an extent of 1200 sq. ft., situated at Plot No.14, Agastheeswarar Nagar, 2nd Street, Kolathur, Chennai - 600 099 and the same was purchased by her mother N.Lakshmi Ammal by way of Sale Deed dated 01.11.1989 registered as Document No.4415/1989 on the file of SRO, Sembium. While so, her mother died intestate on 03.08.2000, leaving her as her only legal heir. That being so, it is averred that the original parent document was filed in O.S. No.4992 of 1993 and later was stuck in appeal proceedings in A.S. No.18 of 2000 and S.A. No.470 of 2005. Thereafter the said second appeal was allowed in her favour and accordingly title was declared as valid and thus the patta for the said land stands in her name. Subsequently, she executed a sale deed in favour of Elakkairasu and presented the same before the 2nd respondent on 18.02.2022 for registration. Though, she presented the said sale deed for execution, the same was not registered and returned by the 2nd respondent for non production of original title document by referring to a Circular issued by the 1st respondent, dated 02.11.2018. The 2nd respondent has issued the impugned Refusal Check slip and challenging the same, this writ petition has been filed.

4. The learned counsel for the petitioner submits that Rule 22 of the Registration Rules does not contemplate for production of original parent document for registering any document. Without any such provision, refusal on the part of the 2nd respondent is arbitrary and issuance of impugned slip is illegal and unsustainable in the eye of law. He further reiterated the facts stated in the affidavit and drew the attention of this Court to the decision in the case of Lakshmi Ammal - Vs - The Sub Registrar, Villivakkam & Anr. (W.P. No.4535/2015 - Dated 5.3.2015) wherein this Court sets aside the impugned order therein and allowed the said petition. Accordingly, he prays for quashment of the impugned refusal slip issued by the 2nd respondent and to allow the instant writ petition.



5. Per contra, Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondents though placed his counter arguments initially about the Circular issued by the 1st respondent, dated 02.11.2018, however, fairly conceded that there is no express provision available as per law in and by which the registering authority can enforce production of the original title deed. He submits prays that this Court may issue appropriate direction to the respondents.

6. This Court gave its anxious consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

7. Admittedly, the facts are not in dispute. This Court, in a catena of decisions has held that the Registering Authority cannot insist on production of original title deeds as a matter of precondition for registration of the documents. Such a precondition is not provided in the statute. The Circular issued by the 1st respondent is only a general guideline and it has no force of law.

8. This Court, in Lakshmi Ammal's case (supra) had occasion to consider an identical issue and referring to various other decisions of this Court, held as under :-

9. Now, the question that arises for consideration is, whether the first respondent can refuse to register the document on the ground that the original parental deed has not been produced before him. Section 71 of the Registration Act, 1998 (herein after called as the Act), contemplates that the Registrar can refuse to register the document giving reasons for refusal. Nowhere in the Registration Act, it contemplates that the Registrar can insist for production of the original parental document. When the Act does not contemplate so, the first respondent cannot insist the petitioner to produce the same. However, the first respondent seems to have relied on the circular of the Inspector General of Registration dated 25.4.2012, in and by which, the Inspector General of Registration has given several instructions to the Sub Registrar and one of the instruction is that he shall require the parties to produce the original parental documents. The circular can only be a guideline and it has no force in law. Unless otherwise such requirement is made under the Registration Act, the guideline alone, without any provisions in the Act, has any role to play. In fact, the said view was taken by this Court in the judgment



reported in 2011-2-L.W.648 K.S.Vijayendran vs. The Inspector General of Registration and another.

10. For the reasons stated above, I am of the considered view that the impugned order of the first respondent dated 5.9.2012 is liable to be set aside and accordingly, set aside and the writ petition stands allowed. The first respondent is directed to register the deed of release on presentation by the petitioner in respect of the property in question. He is directed to register the document on the date of presentation without making the parties to run from pillar to post. He is also directed to do so on receipt of the order copy from this Court or on production of the same. No order as to costs. Consequently, connected miscellaneous petition is closed.

9. The present case on hand, being similar in nature to the case aforesaid, this Court is of the considered view that the petitioner in the present case is entitled to the relief as granted in the case of Lakshmi Ammal.

10. In view of the above, the impugned refusal slip issued by the 2nd respondent deserves to be set aside and, accordingly, the same is set aside and this writ petition is allowed. The petitioner is directed to submit the sale deed along with a copy of this order before the 2nd respondent within a period of two weeks from the date of receipt of a copy of this order. On such submission, the 2nd respondent is directed to register the sale deed, within a period of four weeks thereafter, if it is otherwise in order. However, it is left open to the respondents to verify the genuinty as well as to ascertain/obtain other documents viz., Legal Heirship certificate from the petitioner in support of her claim. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

vsi2



To

1. The Inspector General of Registration,
Santhome High Road,
Mylapore, Chennai - 600 004.

2. The Sub Registrar,
Sembium, Chennai.

+1cc to Mr.G.Ilangovan, Advocate, S.R.No.18465

+1cc to the Government Pleader, S.R.No.19147

W.P.No.5716 of 2022

MG (CO)
RLP (07/04/2022)