



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.7022 of 2022

Kuttiammal

... Petitioner

Vs.

The Sub-Registrar,
Sub Registrar Office,
Thookkanayackan Palayam,
Erode District.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus by calling for the entire records in Refusal Number RFL/Thookanayaickanpalayam/ 4/ 2022 dated 10.03.2022 on the file of the respondent and quash the same and consequently directing the respondent to register the document presented by the petitioner and her daughter Marayal dated 10.03.2022 for registration without insisting for the production of the original parent document.

For Petitioner	: Mr.N.Chinnaraj
For Respondent	: Mr.Yogesh Kannadasan Special Government Pleader

ORDER

The petitioner has filed this petition to issue a Writ of Certiorarified Mandamus to call for the records in Refusal Number RFL/ Thookanayaickanpalayam/ 4/ 2022 dated 10.03.2022 passed the respondent, quash the same and consequently to direct the respondent to register the document presented by the petitioner and her daughter Marayal dated 10.03.2022 for registration without insisting for the production of the original parent document.

2. Mr.Yogesh Kannadasan, learned Special Government Pleader takes notice for the respondent. In view of 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, the petitioner's late husband had purchased a agricultural property in R.S.No.346/C, measuring an extent of 78 ½ cent vide sale deed in Document No.1487/1977 dated 21.07.1977. The petitioner's husband died on 17.09.1993, leaving behind the petitioner, her daughter one Marayal and her son one, Subramani as his legal heirs. While so, the petitioner and her daughter decided to give their share to one Saravanan / son of the petitioner's daughter and presented the settlement deed for registration before the respondent on 10.03.2022. However, the respondent has refused to register the said document, vide Refusal Check Slip dated 10.03.2022 in Refusal Number: RFL/ Thookanayaickanpalayam/ 4/ 2022, on the ground that, the original parent document was not annexed along with the document which is presented for registration. Challenging the same, the present Writ Petition has been filed by the petitioner for the above relief.

4. Though very many grounds have been raised, learned counsel for the petitioner submits that, though the petitioner annexed the copy of the parent document, the respondent has refused to register the document, which is not sustainable. He further submitted that, the issue involved in the present case, is no more res-integra and further he relied upon the decision of this Court in W.P.(MD)No.19745 of 2020, order dated 11.02.2021. The relevant portion of the above said order is extracted hereunder:-

"8.This Court is entirely in agreement with the submissions made on behalf of the petitioner in this regard. The latest decision of the learned Single Judge appears to have not considered the implication of the Circular with reference to the scheme of the relevant Act. On the other hand, the above three decisions cited on behalf of the petitioner would certainly hold the field and in which event, insistence on production of original Title Deeds by the Registering Authority is without any authority of law. The Circular issued by the Inspector General of Registration, Chennai in this regard cannot have any sanctity, unless the power of issuance of such Circular is authorized under the provisions of the Act. This Court has consistently held that no such power can be read into Act, in the absence of any specific provisions and in that view of the matter, as rightly contended by the learned Counsel for the petitioner, the subject issue is no more res-integra. As far as the latest decision of the learned Single Judge is concerned, being a kind of a contra view, this Court is of the



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opinion that the order passed by the learned Single Judge of this Court in W.P.(MD)No.16768 of 2020, dated 26.11.2020 has not appreciated the provisions of the Act, as the reasons of the learned Single Judge are contrary to the well considered earlier Judgments of this Court. The learned Judge has reasoned without any specific reference to the scheme of the Act, which governs the registration."

5. The learned Special Government Pleader appearing for the respondent submitted that the document presented by the petitioner was rejected by the respondent on the ground that the original parent document was not annexed along with the document. However, he fairly conceded that, the document submitted by the petitioner and her daughter will be considered on merits and appropriate orders will be passed within the time that may be fixed by this Court .

6. In view of the decision of this Court in W.P. (MD)No.19745 of 2020, order dated 11.02.2021, makes it clear that, there is no need to present the parent document, and copy of the parent document is sufficient to entertain the document for registration.

7. In view of the above observation, the impugned order / Refusal Slip dated 10.03.2022 in Refusal Number:RFL/Thookanayaickanpalayam/ 4/ 2022 is set aside and the respondent is directed to entertain the document presented by the petitioner and her daughter on merits and pass appropriate orders in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order, and the petitioner is directed to pay requisite Stamp Duty and Registration Charges.

8. Accordingly, this present writ petition is allowed. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

The Sub-Registrar,
Sub Registrar Office,
Thookkanayackan Palayam,
Erode District.

+1 CC to Mr.N.Chinnaraj, Advocate sr 20199
+1 CC to The Government Pleader sr 21088.

W.P.No.7022 of 2022

MT (CO)
SP (19/04/2022)