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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.10055 OF 2022

AND

W.M.P.NO.9758 OF 2022

Mr.A.Krishnan

... Petitioner

Vs.

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

2. The Sub Registrar,
Kodambakkam,
Chennai 600 026.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned Refusal Check Slip Refusal No.RFL/Kodambakkam/31/2022 dated 31.03.2022 issued by the second respondent and quash the same and consequently direct the second respondent to register the Partition Deed presented by the petitioner for registration without insisting upon the production of patta or any other revenue records in the name of the petitioner.

For Petitioner : M/S.G.Ilangovan
For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned Refusal Check Slip in Refusal No.RFL/Kodambakkam/31/2022 dated 31.03.2022 issued by the second respondent and quash the same and consequently direct the second respondent to register the partition deed presented by the petitioner for registration without insisting upon the



production of patta or any other revenue records in the name of the petitioner.

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 the property bearing Plot No.12 in layout No.41 of 1956, situated at No.33/17, Chakrapani Street, West Mambalam, Chennai 600 033, comprised in Town Survey No.60 of Block No.49, Puliyur Village, Egmore Taluk, Chennai District, measuring an extent of 2380 Square feet, within the Sub Registration District of Kodambakkam and Registration District of Chennai Central, originally owned by Sri Ramakrishna Mission, which sold the above said property through their Power Agent Sri.S.Krishna Iyer to and in favour of one Sri.T.S.Rajagopalan, in and, by way of a registered Sale Deed vide Document No.500/1962. Thereafter, the petitioner's mother Mrs.S.Vasantha had purchased the aforesaid property from said Sri.T.S.Rajagopalan under two Sale deeds vide documents Nos.1080 of 1982 dated 31.03.1982 and 2488 of 1982 dated 17.07.1982 respectively, on the file of the Sub Registrar Office, Kodambakkam. After the demise of the petitioner's mother, the petitioner had obtained Legal Heir Certificate from the Competent Authority on 29.09.2014. Further, the petitioner and his sister had decided and executed a partition deed for the aforesaid property and the same has been presented before the second respondent for registration. However, the said partition deed was refused to be registered on the ground that the Patta was not produced in the name of the petitioner, there is a difference in owner's name mentioned in Patta and the document presented by the petitioner. Therefore, on the said reasons, the second respondent has returned the partition deed along with the impugned Refusal Check Slip. Challenging the same, the petitioner has filed the present Writ Petition.

4. The learned counsel for the petitioner submitted that, the petitioner's mother had purchased the aforesaid property through two sale deeds from Sri.T.S.Rajagopalan, as stated supra. However, without verifying the sale deeds produced by the petitioner, the second respondent had simply rejected and given Refusal Slip on the ground that the Patta was not produced, which is not sustainable one. Further, he submitted that the partition deed possessed by the petitioner is based on the title and not based on the Patta obtained by his mother. Hence, the impugned Rejection Slip is not sustainable one. Accordingly, he prays for allowing this Writ Petition.



4.1. The learned counsel for the petitioner further 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:-

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"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 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 respondents submitted that, the petitioner has not produced the original document, which was purchased in the year 1982. However, the petitioner has produced the copy of the parent document, further on perusal of the revenue records, it reveals that the owner of the property is Sri Ramakrishna Mission. Hence, the document presented by the petitioner was rejected in terms of Section 22(A) of the Registration Act. Accordingly, he prays for dismissal of this Writ Petition.



6. Heard the learned Counsel for the petitioner as well as the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

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7. Considering the facts and circumstances of the case, this Court is of the view that the issue arises in the present case is covered by the decision of this Court in W.P.(MD) No.19745 of 2020, order dated 11.02.2021. Admittedly, the petitioner claims that his mother had purchased the property from Sri.T.S.Rajagopalan through two registered sale deeds vide Document Nos.1080 of 1982 dated 31.03.1982 and 2488 of 1982 dated 17.07.1982 respectively. The petitioner has not produced the parent document, however, he has produced the copy of the parent document. Therefore, the certified copy of the parent document is sufficient to entertain the document for registration. Mere non-production of Patta will not deprive the rights to the petitioner for registration of partition deed. In the present case, the petitioner has produced the copy of the parent document and Non Traceable Certificate. However, the second respondent refused to register the partition deed, on the ground that the revenue records were not mutated, which is not sustainable one. Hence, the second respondent is directed to entertain the document presented by the petitioner and upon perusing the copy of the parent document and Non Traceable Certificate produced by the petitioner.

8. Accordingly, this Writ Petition is allowed, the impugned order is set aside and the second respondent is directed to entertain the document presented by the petitioner and pass appropriate orders 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. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

jd/rap



To

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

2. The Sub Registrar,
Kodambakkam,
Chennai 600 026.

+1cc to M/S.G.Ilangovan, Advocate, S.R.No.27901
+1cc to the Government Pleader, S.R.No.28893

W.P.No.10055 of 2022
and
W.M.P.No.9758 of 2022

RR(CO)
PM/27/04/2022