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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.NO.10965 OF 2022

Selvakumaran

... Petitioner

Versus

The Sub Registrar
Sankari

... Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus to call for records on the file of respondent in Refusal Check Slip in RFL/Sankari/2/2022, dated 24.02.2022 and quash the same as illegal, incompetent and without jurisdiction and further direct the respondent to register the sale deed dated 17.02.2022 without insisting for the production of the original parent document.

For Petitioner : M/s.R.Poornima

For Respondent : Mr.Yogesh Kannadasan,
Spl. Govt. Pleader

ORDER

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/Sankari/2/2022 and quash the same and consequently direct the respondent to register the sale deed dated 17.02.2022 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 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 originally property at Survey No.270/1B measuring an extent of 0.89 cents at Devanagoundanoor village, Sankari belongs to one Muniyappakonar. Thereafter, a partition deed was entered into between the Legal Heirs of Ramsamy Konar viz., Subramani, Kandasamy, Komarasamy, Mohanasundaram and the same is registered as Document No.471/99, on the file of Sub Registrar, Sankari. Thus, "C" Schedule property was allotted to Kandasamy and subsequently revenue records were mutated in his name as Patta No.309. While so, the petitioner agreed to purchase the property for a valuable consideration and as such entire sale consideration was paid and sale deed was executed on 17.02.2022 and the same was presented for registration with the respondent after making necessary payments for stamp duty and registration charges. However, the said document was refused to be registered by the respondent on the ground that parent document was not annexed along with the document which is presented for registration. Challenging the said impugned refusal slip, this writ petition has been filed for the above relief.

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 respondent is arbitrary and issuance of impugned slip is illegal and unsustainable in the eye of law. Further, he submits that the issue involved in the present case, is no more res-integra. He 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:-

"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-



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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 respondent submits that the document presented by the petitioner was rejected by the respondent on the ground that original parent document was not annexed along with the document.

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, certified copy of the parent document is sufficient to entertain the document for registration.

7. For the foregoing reasons, the impugned Refusal Check Slip Refusal No.RFL/Sankari/2/2022 issued by the respondent is hereby set aside and the writ petition is allowed. The respondent is directed to entertain the document presented by the petitioner if otherwise in order after collecting necessary stamp duty and registration charges and pass appropriate orders within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

vsi2

To
The Sub Registrar, Sankari.

+1cc to M/s.R.Poornima, Advocate, S.R.No.29271
+1cc to the Government Pleader, S.R.No.30445

W.P.No.10965 of 2022

AJS (CO)
RLP (27/05/2022)