



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 30.03.2022

CORAM

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.14094 of 2021

K.Sundar

... Petitioner

Vs.

1. The Inspector General of Registration,
Department of Registration,
No.100, Santhome High Road,
Foreshore Estate,
Chennai - 600 028.

2. The Sub Registrar,
Sub Registrar Office,
Anna Nagar,
Chennai - 600 040.

3. R.K.Arvind
(Impleaded vide order dt. 09.08.2021
made in WMP.15748/2021 in
W.P.No.14094/2021)

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the refusal Check slip issued by the second respondent herein in Refusal Number RFL/Anna Nagar/89/2021 dated 28.06.2021 refusing to register the Settlement Deed dated 28.06.2021 and quash the same, consequently direct the second respondent to register the Settlement Dated 28.06.2021 presented by the petitioner without insisting for the production of Original Sale Deed dated 30.12.1986 registered as Document No.4419 of 1986 on the files of S.R.O. Anna Nagar.

For petitioner : Mr.S.Sathish Rajan

For Respondents : Mr.T.Mathi for R3

Mr.Yogesh Kannadasan
Special Government Pleader for R1 and R2



ORDER

The petitioner has filed this petition to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the refusal Check slip No.RFL/Anna Nagar/89/2021 issued by the second respondent dated 28.06.2021, refusing to register the Settlement Deed dated 28.06.2021, and quash the same, and consequently direct the second respondent to register the same presented by the petitioner, without insisting on the production of Original Sale Deed, vide Document No.4419 of 1986 dated 30.12.1986 on the file of the S.R.O., Anna Nagar.

2. Mr.Yogesh Kannadasan, learned Special Government Pleader takes notice for the respondents 1 and 2. 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 petitioner and his brother are the joint owners of the property comprised in S.No.50, T.S.No.20, Block No.3, Periya Kudal Village, Egmore-Nungambakkam Taluk, Chennai . When the petitioner's brother refused to hand over the original parent document, he filed a Suit against his brother for partition and the same is pending before this Court in C.S.No.87 of 2021. Thereafter, the petitioner executed a Settlement Deed dated 28.06.2021 for registration in favour of his wife one S.Chitra, and the same was presented before the second respondent along with the certified copies of parent document. However, the said documents were refused to be registered along with a refusal check slip in Refusal No.RFL/Anna Nagar/89/2021 dated 28.06.2021 by the second respondent on the ground that Original Sale Deed 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 certified copy of the parent document, even then, the second respondent refused to register the document, which is not sustainable. The issue involved in the present case is no more res-integra. He further relied upon the order of this Court in W.P.(MD)No.19745 of 2020, Sivanadiyan Vs. The Sub Registrar, Pudukottai 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



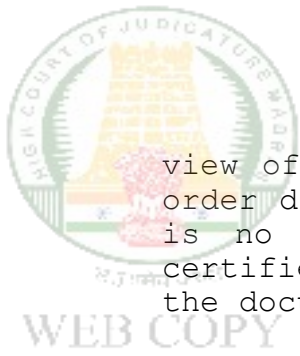
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Act. On the other hand, the above three decisions cited on behalf of the petitioner would certainly hold the field and in which event, insistence on production of original Title Deeds by the Registering Authority is without any authority of law. The 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 1 and 2 submits that the document presented by the petitioner was rejected by the 2nd respondent on the ground that Original parent document was not annexed along with the document sought to be registered.

6. Mr.T.Mathi learned counsel appearing for the third respondent submits that the third respondent is the owner of the property in question. He further submits that earlier, the petitioner filed a Suit in C.S.No.87 of 2021 against him for partition and the same is pending before this Court. Even then, alienating the above said property is not sustainable. Hence this Court may permit the private respondent to appear before the second respondent and the second respondent may pass appropriate orders in terms of Registration Act, 1908, after affording an opportunity of hearing to the private respondent, on merits and in accordance with law

7. Considering the facts and circumstances of the case, it is seen that the petitioner claims that he is the owner of the above said property and the 3rd respondent claim that the petitioner is not the owner of the said property and the partition Suit in C.S.No.87 of 2021 is pending before this Court. However, mere pendency of the Suit is not a bar for entertaining the registration of the documents. Hence, the reason stated by the third respondent is not sustainable, in



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

8. Accordingly, this writ petition is disposed of and the petitioner is directed to present the copy of the parent document and to pay requisite Stamp Duty and Registration Charges and if copy of such document is produced before the second respondent, he is directed to entertain the document so presented by the petitioner and pass appropriate orders, after affording an opportunity of hearing to the parties concerned including the 3rd respondent herein, within a period of twelve weeks from the date of receipt presentation of such document for registration. No costs.

Sd/-
Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

rap/jd
To

1. The Inspector General of Registration,
Department of Registration,
No.100, Santhome High Road,
Foreshore Estate,
Chennai - 600 028.

2. The Sub Registrar,
Sub Registrar Office,
Anna Nagar,
Chennai - 600 040.

+1 cc to Mr.S.Sathish Rajan, Advocate Sr.NO.21262
+2 ccs to Mr.T.Mathi, Advocate Sr.NO. 21223
+1 cc to Government Pleader Sr.NO. 22256

W.P.No.14094 of 2021

KV(CO)
A.SK(11/04/2022)