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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.14578 OF 2022

AND

W.M.P.NOS.13777 & 13778 OF 2022

1. Sivagami
2. Sivakumar Raja
3. Sakthivel

...Petitioners

Vs.

The Sub-Registrar,
Avalpoondurai Sub Registrar Office,
Erode District.

...Respondent

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 order made in Refusal Check Slip dated 08.04.2022 in RFL/Avalpoondurai/38/2022, quash the same and consequently direct the respondent to register Sale deed dated 07.04.2021 by verifying the Certified copy of the parent document and Encumbrance Certificate without insisting for Original Parent Document.

For Petitioners : Mr.U.Azharudhin

For Respondent : Mr.Yogesh Kannadasan, Spl.GP

O R D E R

The petitioners have filed this Writ petition seeking issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order dated 08.04.2022 passed by the respondent in Refusal Check Slip No.RFL/Avalpoondurai/38/2022, quash the same and consequently direct the respondent to register the Sale deed presented by the writ petitioner without insisting for the production of original parent document.



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2. 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 petitioners is that, the 1st petitioner is the owner of the property comprised in Re-Survey Nos.804/1 and 804/2, measuring an extent of 2.79 Acres out of 5.58 Acres, situated at Elumathur Village, Modakurichi Taluk, Erode District and the same was allotted to her by way of registered Will dated 22.10.1998 executed by her maternal aunt one, Lakshmiammal. After the demise of the said Lakshmiammal, the said Will dated 22.10.1998 came into force and the 1st petitioner is in complete possession and enjoyment of the said property and the revenue records were also mutated in her favour. Whiles, the 1st petitioner with an intention to sell the subject property, executed a Sale deed dated 07.04.2022 in favour of the 2nd and 3rd respondents and when the same was presented for registration before the respondent, the respondent rejected the same, vide Refusal Check Slip dated 08.04.2022 in RFL/Avalpoondurai/38/2022, on the sole ground that the original parent document was not annexed along with the document 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 respondent refused to register the document, which is not sustainable. Further, the issue involved in the present case, is no more res-integra and 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



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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 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, it is clear that, there is no need to present the original parent document, and certified copy of the parent document is sufficient to entertain the document for registration.

7. Accordingly, this writ petition is allowed, the impugned order is set aside and the 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 petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

skt



To

The Sub-Registrar,
Avalpoondurai Sub Registrar Office,
Erode District.

+1cc to Mr.U.Azharudhin, Advocate, S.R.No.34805

+1cc to the Government Pleader, S.R.No.35359

W.P.No.14578 of 2022

and

W.M.P.Nos.13777 & 13778 of 2022

RSV(CO)

PM/30/06/2022