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W.P.No.27061 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2022

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.27061 of 2022

Shanmuga Priya

... Petitioner

VS.

1.The District Registrar,
Salem District, Salem.

2.Sub Registrar,
Athur Sub Register Office (East),
Athur, Salem District.

...

Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned Refusal Slip in Ref.No.A.T.MU.No.394/2022 dated 16.09.2022 in respect of the petitioner's property Schedule:1 comprised in S.No.463/2 measuring an extent of 0.96 Acres, S.No.463/3 measuring an extent of 0.84 Acres, S.No.463/1B measuring to an extent of 0.32 Acres, Schedule:2: S.No.463/1B of an extent of 0.32 acres Schedule:3 S.No.463/1B measuring to an extent of 0.32 Acres, Schedule: 4: W.No.463/2 measuring of an extent of 0.96 Acres, S.No.463/3 measuring of an extent of 0.84 Acres situated at Salem East, Athur Taluk, Kasba Attur Town, Salem District and quash the same and consequently direct the 2nd respondent to forthwith



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register the sale deed dated 01.09.2022 presented by the petitioner, without insisting for the production of original parent documents pursuant to the representation given by the petitioner to the respondent dated 26.09.2022.

For Petitioner : Mr.M.Manimaran
for Mr.T.Balaji

For Respondents : Mr.G.Krishna Raja
Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the order in Refusal Slip in Ref.No.A.T.MU.No.394/2022 dated 16.09.2022 and a consequential direction to the 2nd respondent to forthwith register the sale deed dated 01.09.2022 presented by the petitioner, without insisting for the production of original parent documents pursuant to the representation given by the petitioner to the respondent dated 26.09.2022.

2.Mr.G.Krishna Raja, learned Additional 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 petitioner is the owner of the



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property. Earlier entered into a sale agreement with one Prabhu. However, the said Prabhu not followed the sale agreement and not returned the original document and tried to enter with the petitioner's property. Thereby, the petitioner filed a suit in O.S.No.231 of 2019 for permanent injunction. The permanent injunction was granted in favour of the petitioner. Thereafter, the petitioner decided to settle the property in favour of her sister and the settlement document was presented for registration. However, the same was refused vide impugned order dated 16.09.2022 on the ground that the original document was not produced. Hence, the present Writ Petition has been filed.

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 is not sustainable, 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



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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 Additional 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***, makes it clear that, there is no need to present the parent document, certified copy of the parent document is sufficient to



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entertain the document for registration.

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7. Accordingly, this writ petition is disposed of 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.

11.10.2022

Index : Yes/No
Speaking Order : Yes/No
gba

To

1.The District Registrar,
Salem District, Salem.

2.Sub Registrar,
Athur Sub Register Office (East),
Athur, Salem District.



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M.DHANDAPANI,J.

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