



W.P.No.26918 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2022

CORAM

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

W.P.No.26918 of 2022

P.Krishnan

... Petitioner

Vs

1. The District Registrar,
Namakkal District,
Namakkal.

2. The Sub Registrar,
Kumarapalayam Sub Registrar Office,
Namakkal District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned refusal check slip issued by the second respondent in Refusal Number: RFL/Kumarapalayam/48/2022 dated 30.08.2022 and quash the same and consequently direct the respondents to register the sale deed presented by the petitioner in S.F.No.186/1 & Survey No.186/1A and New Survey No.186/1A1A of an extent of 1.25.5 situated at Elanthakuttai Village, Kumarapalayam Sub Division, Namakkal District.



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For Petitioner : Mr.N.Marivel

For Respondents : Mr.K.Tippu Sultan
Government Advocate

ORDER

The case was heard at length on yesterday i.e., on 06.10.2022 in presence of the learned counsel for the petitioner and the learned Government Advocate for the respondents.

2. After hearing the arguments on both sides, the order was dictated, however, before the dictation could be transcribed, at the end of the day the learned Government Advocate for the respondents mentioned that there is a decision of the Hon'ble Division Bench of this Court in the case of **Ammasi Kutti and another Vs. S.Manoharan and others** in W.A.No.1989 of 2019 vide order dated 30.04.2021 was not considered wherein, in paragraph 7, the Hon'ble Division Bench referred to a Circular dated 25.04.2012 issued by the Inspector General of Registration.

3. A specific reference was made to paragraph 8 (C) from the said



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order extracting the content of the circular which reads as under:

8. Only to safeguard the public interest and to prevent bogus or fraudulent registration of the documents, the following instructions have been given by the authorities:

(C) In case the previous original document is lost, the party should produce certified copy of the document, copy of complaints recorded in Police Station and copy of advertisement published in local dailies regarding loss of documents. In such case, the party has to produce Patta/Property tax receipt in original.”

4. The learned Government Advocate for the respondents submits that pursuant to the order of this Court in the above case, the Government of Tamil Nadu has also inserted Rule 55A to the Registration Rules and published the same on 05.09.2022 in G.O.(Ms).No.438, General Statutory Rules, Notification, Orders, Regulations, etc.

5. It is submitted that the registration cannot be allowed unless the petitioner furnishes non-traceable certificate issued by the Police Department along with an advertisement published in the local Newspaper as to the notice of loss of the previous original deed.



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6. The facts on record indicate that the petitioner is the owner of the subject property and intends to transfer the same in favour of his grandsons as he suspects that his sons who are leading way wards life would create problem and therefore, instead of settling the property he wants to transfer the same by way of a sale which is now rejected by the respondent by issuing a Refusal Number: RFL/Kumarapalayam/48/2022 dated 30.08.2022, on the ground that the petitioner has not been able to produce the original copy of the parent document / a non-traceable certificate issued by the Police Department along with the Advertisement published in the local Newspaper as was contemplated in the Circular dated 25.04.2012 and now in terms of amendment to Registration Rules vide G.O.(Ms).No.129, Commercial Taxes and Registration (J2) dated 05.09.2022.

7. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Government Advocate for the respondents.



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8. The decision that was rendered by the Hon'ble Division Bench of this Court in the case of **Ammasi Kutti and another Vs. S.Manoharan and others** in W.A.No.1989 of 2019 vide order dated 30.04.2021, dealt with the situation where there were rival claims. As far as the present case is concerned, the petitioner has produced a certified copy of the Parent Document vide sale deed dated 03.10.2019 by virtue of which the petitioner became the owner of the property.

9. The facts on record also indicate that the petitioner is aged about 73 years. Considering the same, I am inclined to direct the respondents to register the sale deed executed by the petitioner on 29.08.2022 in favour of his grandsons after verifying that there are no other encumbrance over the property which would bar the sale by the petitioner.

10. The sale deed may be registered after obtaining an encumbrance certificate and after due verification from their records that the property in question has not been encumbered in favour of any considered party. This exercise shall be carried out by the respondents within a period of four weeks from the date of receipt of a copy of this order.



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11. The writ petition stands allowed with the above observations.

No costs.

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Index : Yes/No

Speaking/Non-Speaking Order

rgm/SHA

To



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Namakkal District,
Namakkal.
2. The Sub Registrar,
Kumarapalayam Sub Registrar Office,
Namakkal District.

C.SARAVANAN, J.

rgm/SHA



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