



W.P.Nos.31652 & 31653 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2022

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.Nos.31652 & 31653 of 2022

Tmt.Saraswathy Venkatesh

. . . Petitioner
in both Writ Petitions

Vs.

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

2. Sub Registrar's Office (Ganapathy),
Sankaralinganar Road,
Maniyakarapalayam,
Ganapathy,
Coimbatore-641 006.

. . . Respondents
in W.P.No.31562 of 2022

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



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2. The Joint-I Sub Registrar Office,
No.102, State Bank Road,
District Collector Office Campus,
Coimbatore-600 018

. . . Respondents
in W.P.No.31563 of 2022

Prayer in W.P.No.31652 of 2022 :Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the entire records relating to the impugned Refusal Check Slip issued by the 2nd respondent bearing its No.No.RFL/Ganapathy/11/2022 dated 18.11.2022 and quash the same and consequently direct the second respondent to register the Gift Settlement Deed dated 17.11.2022 without insisting the original Parent Title Deed document No.1714 of 1980 dated 19.03.1980 and Document No.1256(P16/1995) dated 15.02.1985 on the file of the Office of Sub Registrar, Ganapathy, Coimbatore.

Prayer in W.P.No.31653 of 2022 :Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the entire records relating to the impugned Refusal Check Slip issued by the 2nd respondent bearing its No.No.RFL/1/Joint Sub Registrar, Coimbatore/49/2022 dated 17.11.2022 and quash the same and consequently direct the second respondent to register the Gift Settlement Deed dated 17.11.2022 without insisting the original Parent Title Deed document Nos.3040 & 3041 of 1980 on the file of the Joint-I Sub Registrar, Coimbatore District.



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In both WPs :

For Petitioner : M/s.M.Sriram

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

ORDER

Since the issue involved in both the Writ Petitions are one and same, both petitions are taken up for final disposal by way of a common order.

2. Mr.G.Krishna Raja, learned Additional Government Pleader takes notice for the respondents.

3. The Writ Petition in W.P.No.31652 of 2022 has been filed seeking to quash the impugned order dated 18.11.2022 which was passed by the 2nd respondent and to direct the 2nd respondent to register the Gift Settlement deed dated 17.11.2022 without insisting for the original Parent title deed document.



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4. The Writ Petition in W.P.No.31653 of 2022 has been filed seeking to quash the impugned order dated 17.11.2022 which was passed by the 2nd respondent and to direct the 2nd respondent to register the Gift Settlement deed dated 17.11.2022 without insisting for the original Parent title deed document.

5. It is the case of the petitioner that the petitioner and her son namely Mr.V.Sundarraaj have jointly purchased the subject property by way of two registered sale deeds and they are in joint possession of the said property. In order to settle the above said property in favour of her daughter viz., Jayanthi Rangaraj, the petitioner had executed two Gift Settlement deeds dated 17.11.2022 in favour of her daughter and placed the same for registration before the 2nd respondent, however, the 2nd respondent had refused to register the same vide the impugned refusal check slips in respective Writ Petitions, on the ground that the original document was not presented for verification. Challenging the same, the present petitions have been filed.



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6. 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 documents which is not sustainable and in support of his plea, learned counsel placed his reliance upon the decision of this Court in W.P.No.1637 of 2020 dated 23.11.2020, in which, certain directions were given and the petitioner herein may also be granted the same relief in the light of the above decision. Accordingly, he prays for allowing this Writ Petition.

7. Learned Additional Government Pleader appearing for the respondents submitted that the documents presented by the petitioner were rejected by the 2nd respondent on the ground that parent documents were not annexed along with the documents presented for registration.

8. The issue involved in the present case is no longer *res integra*. 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 and that a



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

9. In view of the ratio laid down by this Court above, these Writ Petitions are allowed, the impugned orders dated 17.11.2022 & 18.11.2022



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in respective Writ Petitions are set aside and the 2nd respondent in both Writ Petitions are directed to entertain the documents presented by the petitioner and pass appropriate orders on the same, within a period of twelve weeks from the date of receipt of a copy of this order, on payment of requisite Stamp Duty and Registration Charges, if the same is otherwise in order. No costs.

25.11.2022

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Index : Yes / No

Internet : Yes / No



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M.DHANDAPANI, J.

NHS

To

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