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W.P.No.32195 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.32195 of 2022

K.S.Marakkal

... Petitioner

Vs.

The Joint Sub Registrar-II,
District Registrar Office,
Gobichettipalayam,
Erode District.

... Respondents

Prayer: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 Refusal Check Slip in RFL2/Joint Sub Registrar-II, Gobichettipalayam/23/2022 dated 23.11.2022 passed by the respondent, to quash the same and consequently to direct the respondent to register the Settlement Deed dated 23.11.2022 executed by the petitioner in the name of her paternal grand-son K.S.Karthikeyan in respect of the property measuring 6.79 ½ Acres comprised in new S.F.No.627/1 corresponding to Old S.F.Nos.170-B, 171-B2, Kugalur E Village, Gobichettipalayam Taluk, Erode District.

For Petitioner : Mr.N.Manoharan

For Respondents : Mr.G.Krishna Raja



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Additional Government Pleader

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned Refusal Check Slip in RFL2/Joint Sub Registrar-II, Gobichettipalayam/23/2022 dated 23.11.2022 passed by the respondent, to quash the same and consequently to direct the respondent to register the Settlement Deed dated 23.11.2022 executed by the petitioner in the name of her paternal grand-son K.S.Karthikeyan in respect of the property measuring 6.79 ½ Acres comprised in new S.F.No.627/1 corresponding to Old S.F.Nos.170-B, 171-B2, Kugalur E Village, Gobichettipalayam Taluk, Erode District.

2.Mr.G.Krishna Raja, learned Additional Government Pleader takes notice for the respondent. 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 property comprised in Neew S.F.No.627/1, corresponding to Old S.F.Nos.170-B, 171-B and 172-B2,



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measuring an extent of 6.79 ½ acres situated in Kugalur E Village, Gobichettipalayam Taluk, Erode was originally owned by one R.Venkattaramanan Iyer. The same was purchased by the petitioner by virtue of two Sale Deeds registered as Doc.Nos. 2010 of 1969 and 2105 of 1970 dated 11.07.1969 and 06.09.1970 respectively. Thereafter, the petitioner executed a Settlement Deed dated 23.11.2022 in favour of her grandson namely K.S.Karthikeyan and the same was presented before the respondent. Since, the petitioner misplaced the original Sale Deeds, produced the certified copies of the Sale Deeds, where as, the respondent did not entertain the same vide impugned Refusal Check Slip in RFL/Joint Sub Registrar-II, Gobichettipalayam/23/2022 dated 23.11.2022. 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 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



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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 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.



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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 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.

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

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The Joint Sub Registrar-II,
District Registrar Office,
Gobichettipalayam,
Erode District.

M.DHANDAPANI,J.

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