



W.P.(MD)Nos.1084 & 1093 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.06.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.1084 & 1093 of 2022

W.P.(MD)No.1084 of 2022:

Vadivel Murugan

... Petitioner

Vs

The Joint Sub Registrar,
Woraiyur,
Tiruchirappalli,
Tiruchirappalli District.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned refusal slip in R.F.L/1, Joint Sub-Registrar, Trichy/223/2021 dated 28.09.2021 and quash the same as illegal and consequently, direct the respondent to register the documents presented by the petitioner for registration within the time that may be stipulated by this Court.

W.P.(MD)No.1093 of 2022:

Thirunavukarasu

... Petitioner

Vs



W.P.(MD)Nos.1084 & 1093 of 2022

The Joint Sub Registrar,
Woraiyur, Tiruchirappalli,
Tiruchirappalli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned refusal slip in R.F.L/ Joint Sub-Registrar, Woraiyur/34/2021 dated 07.09.2021 and quash the same as illegal and consequently, direct the respondent to register the documents presented by the petitioner for registration without insisting for the production of original parent document in light of the order made by this Court in ***K.S.Vijayandran Vs IG of Registration 2011 (2) LW 648*** and in Sivanadiyan Vs. Sub Registrar, Pudukottai, 2021 (2) CTC 526 within the time that may be stipulated by this Court.

In both cases :-

For Petitioner : Mr.V.George Raja
For Respondent : Mr.K.S.SelvaGanesan
Additional Government Pleader

COMMON ORDER

Heard the learned counsel on either side.

2.The petitioners in these writ petitions are brothers. They are the sons of late S.Kanthasamy Pillai. Their father is said to have executed an unregistered “Will” bequeathing properties in the names of each of the sons. The petitioners want to exchange the properties so bequeathed. They wanted to carry this out



by executing deeds of settlement. When the deeds of settlement were presented before the respondent, the respondent took the stand that since the original parent documents were not produced, the settlement deeds could not be registered. He thereupon issued the impugned check slips. Questioning the same, these writ petitions came to be filed.

3.The learned counsel appearing for the petitioners reiterated all the contentions set out in the affidavits filed in support of the writ petitions and called upon this Court to set aside the impugned refusal cheque slips and grant relief as prayed for. Per contra, the learned Additional Government Pleader appearing for the registering authority submitted that no case for quashing has been made out.

4.I carefully considered the rival contentions and went through the evidence on record.

5.As rightly pointed out by the learned counsel appearing for the writ petitioners, it has been repeatedly held that the Registering Authority cannot insist on production of the original title deeds. In the decision reported in **2021 (2) CTC 526 (Sivanandiyan Vs. Sub Registrar, Pudukottai)** it has been held as follows:



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“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 the 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.*”



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The operative portion of the said order is as follows:

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“10.In the above circumstances, the impugned refusal slip in *R.F.L/1, Joint Sub-Registrar, Pudukottai /167/2020 dated 10.12.2020* is hereby set aside. The respondents are directed to register the documents presented by the petitioner for registration, if the document is otherwise in order; without insisting on the production of original parent document, in terms of the law laid down by this Court in the three decisions as cited *supra*.”

6.It is seen that the petition mentioned property was purchased by the father of the petitioners and the original title deed was very much produced before the respondent. The only reason for declining to receive the documents was that the “Will” executed by the petitioner's father is an unregistered one. It is well settled that “Will” does not require to be registered. The reason projected by the respondent is clearly unsustainable in law. When this Court has gone to the extent of holding that the registering authority cannot insist on production of original title documents, the impugned stand now taken by the registering authority on the ground of non-registration of the testament executed by the petitioners' father is clearly unacceptable.



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7. In this view of the matter, respectfully following the aforesaid ratio, I quash the impugned check slips. The petitioners are permitted to re-present the documents before the registering authority. The registering authority shall receive the same, register it and release it subject to the fulfilment of the other usual formalities. These writ petitions are allowed. No costs.

24.06.2022

Index : Yes / No
Internet : Yes/ No
mga/SKM

To

The Joint Sub Registrar,
Woraiyur, Tiruchirappalli,
Tiruchirappalli District.



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G.R.SWAMINATHAN, J.

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