



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.8036 of 2022

WEB COPY

Dhanapackiam @ Dhanalakshmi

.. Petitioner

Vs

The Sub Registrar,
Kannivadi Sub Registrar Office,
Dindigul District.

.. Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned refusal check slip issued by the respondent in RFL/ Kannivadi/ 2/ 2022, dated 18.04.2022 and quash the same and consequently, direct the respondents to register the Will presented by the petitioner in respect of the house plot in S.No.139/48 of an extent of 1 Acre 11 cents situates in Seerangadu Village, Kannivadi, Dindigul West, Dindigul, within a time as stipulated by this Court.

For Petitioner : Mr.N.Marivel

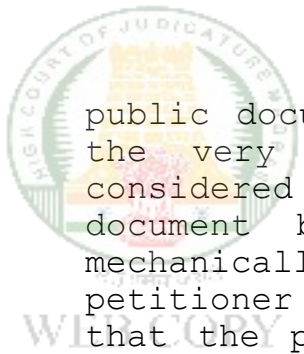
For Respondent : Mr.S.Shanmugavel
Additional Government Pleader

ORDER

This writ petition has been filed challenging the refusal check slip dated 18.04.2022 issued by the respondent refusing registration of the Will executed by the petitioner in favour of her prospective Legal heirs, on the ground that the petitioner has not produced the original parent documents. The parent document is a registered Release deed dated 03.09.2010 registered as Document No.1849/2010. The petitioner has produced the certified copy of the said parent document at the time of registration to the respondent. But under the impugned refusal check slip, the respondent has refused registration on the ground that the petitioner has not produced the original parent document dated 03.09.2010.

2.Heard Mr.N.Marivel, learned Counsel for the writ petitioner and Mr.S.Shanmugavel, learned Additional Government Pleader who accepts notice on behalf of the respondent.

3.Admittedly, the release deed dated 03.09.2010, which is a parent title deed, is a registered document and therefore, it is a



public document. Being a public document, that too registered with the very same Sub-Registrar's office, this Court is of the considered view that refusal to take cognizance of the said public document by the respondent is erroneous. The respondent has mechanically refused to register the Will presented by the petitioner for registration without applying his mind to the fact that the petitioner has produced a certified copy of the release deed dated 03.09.2010, which is a parent title deed and is a public document.

4.The issue involved in this writ petition has been considered by another learned Single Judge of this Court in the case of **Sivanadiyan Vs. The Sub Registrar, Pudukottai**, reported in **2021 (2) CTC 526**. In similar circumstances, this Court held that production of original title deeds is not mandatory and the registering authority is not empowered to insist for production of original documents [parent documents] in the absence of specific provision under the Registration Act. The learned Single Judge has held that the circular issued by the Inspector General of Registration, Chennai, cannot have legal sanctity unless the power of issuance of such circular is authorised under the provisions of the Act.

5.In the case on hand also, the Registration Act does not empower the registering authority to refuse registration just because the petitioner has not produced the original title deed [parent document], though she has produced the certified copy of the same. This Court is in agreement with the view taken by the learned Single Judge in the aforementioned decision.

6.Though the learned Additional Government Pleader appearing for the Registration Department would submit that there is a Circular of the Inspector General of Registration, dated 02.11.2018, which requires the presenter of the document to produce Non Traceable Certificate in respect of the lost document, the said requirement in the considered view of this Court is not as per the provisions of the Registration Act. It has got no legal sanctity. Hence, the necessity to produce Non Traceable Certificate as submitted by the Additional Government Pleader will not arise.

7.Therefore, this Court is of the considered view that by total non-application of mind, the impugned refusal check slip has been issued by the respondent and accordingly, the impugned refusal check slip dated 18.04.2022 issued by the respondent is quashed. The respondent is directed to admit the Will dated 18.04.2022 presented by the petitioner for registration and register the said document if it is otherwise in order within a period of two [2] weeks from the date of receipt of a copy of this order.



8. Accordingly, this writ petition stands allowed. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

WEB COPY

/ /2022

Sub Assistant Registrar (CS)

TM

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

The Sub Registrar,
Kannivadi Sub Registrar Office,
Dindigul District.

W.P. (MD) No. 8036 of 2022
26.04.2022

GM (CO)
KB (17.05.2022) 3P 2C