



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.8057 of 2022

WEB COPY

1.Jeyanthi Seeman
2.Jeyanthi

.. Petitioners

Vs

The Sub-Registrar,
Cumbum,
Theni District.

.. Respondents

PRAYER: 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 RFL/Cumbum/1/2021 dated 29.10.2021 and quash the same and consequently direct the respondent to register the sale Deed dated 29.10.2021, executed by the first petitioner in favour of the 2nd petitioner without insisting the original document within the time fixed by this Court.

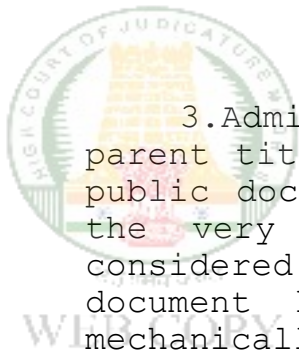
For Petitioner : Mr.K.K.Udayakumar

For Respondent : Mr.J.John Rajadurai
Government Advocate

ORDER

This writ petition has been filed challenging the refusal check slip dated 29.10.2021 issued by the respondent refusing registration of the Sale deed executed by the first petitioner in favour of the second petitioner, on the ground that the petitioners have not produced the original parent document. The parent document is the registered sale deed in favour of the first petitioner, dated 07.03.2014 registered as Document No.1070 of 2014. The petitioners have 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 petitioners have not produced the original parent document dated 07.03.2014.

2.Heard Mr.K.K.Udayakumar, learned Counsel for the writ petitioners and Mr.J.John Rajadurai, learned Government Advocate who accepts notice on behalf of the respondent.



3. Admittedly, the sale deed dated 07.03.2014 which is the 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 Sale Deed presented by the petitioners for registration without applying his mind to the fact that the petitioners have produced a certified copy of the sale deed dated 07.03.2014, 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 petitioners have not produced the original title deed [parent document], though they have 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 Government Advocate 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 Government Advocate 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 29.10.2021 issued by the respondent is quashed. The respondent is directed to admit the Sale deed, dated 29.10.2021, 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 ()

// 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,
Cumbum,
Theni District.

+1 CC to M/s.SPL.GP. (SR-21877[F] dated 27/04/2022)

+1 CC to M/s.K.K.UDAYAKUMAR, Advocate (SR-22924[F] dated 29/04/2022)

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26.04.2022

RD(17.05.2022) 3P 4C