



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.06.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.11863 of 2022

WEB COPY

Rajendran

... Petitioner

Vs.

1. The District Registrar,
Department of Registration,
Madurai North,
Madurai.

2. The Sub-Registrar,
Department of Registration,
Y.Othakadai,
Rajagampeeram,
Madurai District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order/check slip passed by the second respondent in RFL/Othakadai/4/2022 dated 06.05.2022 and quash the same and consequently direct the second respondent to register the settlement deed dated 06.05.2022 and release the same within a period that may be stipulated by this Court.

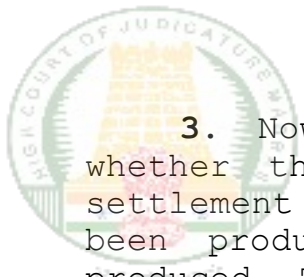
For Petitioner : Mr.N. Jeyaram Sidharth

For Respondents : Mr. J.K. Jayaseelan,
Government Advocate.

O R D E R

Heard the learned counsel on either side.

2. The petitioner is an 84 years old senior citizen. He executed a settlement deed settling the properties in question in favour his daughter. However, the original title documents are not available. The petitioner is not able to lay hands thereon. He has given a complaint in this regard. The petitioner is ready to make paper publication in some Tamil daily having local circulation. The petitioner through his counsel informs the Court that he has not encumbered the property and he is willing to file an affidavit to that effect before the registering authority.

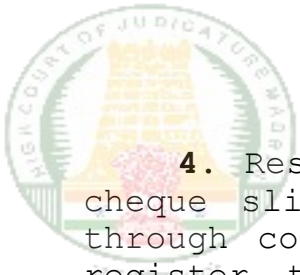


3. Now the only question that arises for consideration is whether the registration authority can decline to register the settlement deed on the ground that the parent documents have not been produced or the no objection certificates have not been produced. The issue on hand is no longer *res integra*. The learned counsel appearing for the petitioner relies the order dated **11.02.2021** made in **W.P. (MD) No.19745 of 2020 (Sivanadiyan V. The Sub Registrar, Pudukottai District)**. Paragraph Nos.8, 9 and 10 of the said decision is as follows:-

" 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.

9.In fact, in one of the judgments cited by the learned counsel for the petitioner, the learned Additional Government Pleader for the respondent himself has conceded the legal position. In that view of the matter, the reliance placed by the Department on the latest order of the learned single Judge needs to be held as not valid.

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*."



4. Respectfully following the said order, the impugned refusal cheque slip is quashed. The undertaking given by the petitioner through counsel is recorded. The second respondent is directed to register the petition mentioned settlement deed subject to the fulfillment of the usual formalities. This writ petition stands allowed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/07/2022

Sub Assistant Registrar(CS)

PMU

To:

1. The District Registrar,
Madurai North,
Madurai.
2. The Sub-Registrar,
Y.Othakadai,
Rajagampeeram,
Madurai District.

+1 CC to M/s.SPL.GP (SR-27793[F] dated 23/06/2022)

W.P.(MD)No.11863 of 2022
22.06.2022

RK/05.07.2022 : 3P/4C