



W.P.(MD)No.13623 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.13623 of 2022

and

W.M.P(MD)No.9676 of 2022

K.Lakshmi

... Petitioner

Vs

1.The Sub Registrar,
Sathur,
Virudhunagar District.

2.Meenakshi

... 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 proceedings of the impugned Refusal Check Slip Number RFL/Sathur/4/2022 dated 15.06.2022 on the file of the first respondent and quash the same and consequently, direct the first respondent to register the document, dated 15.06.2022, presented by the petitioner for registration without insisting for the production of the original parent document within stipulated time.

For Petitioner : Mr.I.Robert Chandrakumar

For Respondents : Mr.K.S.Selvaganesan
Additional Government Pleader for R.1



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ORDER

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Heard the learned counsel appearing for the writ petitioner and the learned Additional Government Pleader appearing for the first respondent.

2. The petitioner had purchased the petition mentioned property from the second respondent. When the sale deed was presented for registration, the first respondent issued impugned refusal check slip on the ground that the original document has not been produced. Challenging the same, this writ petition has been filed.

3. According to the learned counsel appearing for the petitioner, the property in question belonged to the grandmother of the son of the second respondent. The said grandmother executed a settlement deed in favour of one Kaliyappan in the year 1989. Kaliyappan, in turn, executed settlement deed in favour of his mother / second respondent herein in the year 1992. The settlement deed executed by Kaliyappan in favour of the second respondent is presently not available. On that ground, the first respondent declined to entertain the sale deed.



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4. It is true that in quite a few decisions, it has been held that for non-production of the original documents, the registering authority cannot refuse to register the document. It is stated by the learned Additional Government Pleader that in one case, the Hon'ble Division Bench of this Court had granted interim order.

5. Be that as it may, by depositing the original document, the loan can be raised. Such a mortgage does not require registration also. The second respondent cannot be heard to say casually that he lost the original document. Since third party rights are at stake, the document in question can be allowed to be registered if in the petition mentioned sale deed, a clause is specifically incorporated to the effect that original document has been lost and that it has not been mortgaged. If such clause is specifically incorporated in the petitioner's sale deed, the first respondent can be directed to receive the same and register it and release it subject to the fulfilment of the usual formalities.

6. With this direction, this writ petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

12.07.2022

Index : Yes / No
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G.R.SWAMINATHAN, J.

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To

The Sub Registrar,
Sathur,
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