



W.P.(MD)No.21611 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.09.2022

CORAM

THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition (MD) No.21611 of 2022

Thiyagarajan, S/o.Ramasamy

.. Petitioner

Versus

The Sub-Registrar,
Musiri,
Trichy District.

.. Respondent

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned Refusal Check Slip No.RFL/Musiri/107/2022, dated 22.08.2022, quash the same as illegal, arbitrary and consequently, direct the respondent to register the documents presented by the petitioner for registration without insisting the production of the original document, within the time fixed by this Court.

For Petitioner	:	Mr.A.Joel Paul Anotony
For Respondent	:	Mr.K.S.Selvaganesan Additional Government Pleader

ORDER

The petitioner has prayed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned refusal check slip No.RFL/Musiri/107/2022, dated 22.08.2022, and consequently, to direct the



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respondent to register the document presented by him for registration without insisting upon the production of the original parent document, within a time frame.

2.The learned counsel appearing for the petitioner submits that the petitioner has purchased an agricultural land in S.No.234/C4B1C, situated at Seenivasanallur Village, Thottiyam Taluk, Trichy District, from one Sakthivel, Panneerselvam, Thangavel, Thottiyam, Pushpam and Palaniyammal, who were the co-owners of the said property, on 22.08.2022. After execution of the sale deed, the petitioner presented the documents relating to the above said property for registration on the same day before the respondent. After presenting the documents for registration, the respondent refused to register the document, insisting the petitioner to produce the original documents. Hence, the petitioner has approached this Court seeking the relief stated supra.

3.Heard Mr.A.Joel Paul Antony, learned counsel for the petitioner and Mr.K.S.Selvaganesan, learned Additional Government Pleader appearing for the respondent.

4.Now, the Government of Tamil Nadu, inserted Rule 55-A to the Registration Rules under the Registration Act, 1908, and passed G.O.(Ms.)No.



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129, Commercial Taxes and Registration (J2), dated 05.09.2022, [No.SRO A-16(a)/2022] by way of an amendment. After Rule 55, the following Rule shall be inserted, namely:-

"55A. (i) The registering officer before whom a document relating to immovable property is presented for registration, shall not register the same, unless the presentant produces the previous original deed by which the executant acquired right over the subject property and an Encumbrance Certificate pertaining to the property obtained within ten days from the date of presentation:

Provided that in case an encumbrance as to mortgage, orders on attachment of property, sale agreement or lease agreement exists over the property, the registering officer shall not register such document if the time limit for filing of suit is not lapsed or No Objection Certificate is not granted by the appropriate authority or raising of the attachment is not done, as the case may be:

Provided further that in case the previous original deed is not available as the property being an ancestral one, the registering officer shall not register such document, unless the presentant produce any revenue record evidencing the executant's right over the subject property such as patta copy issued by Revenue Department or tax receipt:

Provided also that if the previous original deed is lost, the registering officer shall register such document only on production of non-traceable Certificate issued by the Police department along with the advertisement published in the local Newspaper as to the notice of loss of the previous original deed:

Provided also that production of the previous original deed shall not be necessary where the Government or a Statutory body



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is the executant of the document or for such class of documents as may be notified by the Inspector General of Registration, from time to time.

(ii) The registering officer, on being satisfied that the description of the property contained in the document presented for registration conforms with the description of the property found in the previous original deed produced by the presentant as provided under this rule, he shall inscribe the word 'verified' on a conspicuous portion of the first page of such title deed and affix his signature with date and thereafter cause scanning of page containing such inscription as a reference document.

(iii) In case where revenue records are produced under this rule, the same shall be scanned as the main document and where Non-Traceable Certificate and the advertisement published in the local Newspaper are submitted by the presentant, the same shall be scanned as reference documents:

Provided that such verification and scanning of the previous original deed or record in the manner provided under this rule, shall not be construed to be an act of ascertaining the validity of the document presented for registration and also the same shall not absolve or deprive any person from the provisions contained in Parts XIV and XV of the Registration Act, 1908 (Central Act XVI of 1908).";

(2) in rule 162, after item XIX, the following item shall be added, namely:-

"XX. Rule 55A. – That the presentant of the document fails to produce the original deed or record specified in rule 55A."



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5. In view of the above, this Court is of the view that unless and until the petitioner produces the police complaint, non-traceable certificate, a paper publication regarding missing of original parent document and certified copy of the document, the respondent/Sub-Registrar will not register the same. Hence, the petitioner is directed to produce all those documents before the respondent to enable him to register the sale deed. On receipt of such documents, the respondent is directed to consider the same and register the sale deed, within a period of eight weeks from the date of receipt of a copy of this order.

6. With the above directions, this Writ Petition is disposed of. No costs.

Index : Yes/No

20.09.2022

To

The Sub-Registrar,
Musiri,
Trichy District.



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V.BHAVANI SUBBAROYAN, J.

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