



W.P.(MD).No.21869 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.21869 of 2022

Rajaram

... Petitioner

vs.

1.The Inspector General of Registration,
Tamil Nadu Registration Department,
No.100, Santhome High Road,
Chennai – 600 028.

2.The Sub-Registrar,
Aathoor Sub-Registration Office,
Aathoor, Dindigul District.

Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned refusal check slip in Refusal No.RFL/Aathoor/Dindigul/52/2022, dated 5.9.2022 by the second respondent and to quash the same as illegal and consequently to direct the second respondent to register the gift deed, dated 5.9.2022 presented by the Petitioner for registration without insisting for the production of the original parental document in the light of the order made by this



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Court in the case of Vijayandran .vs.I.G of Registration, reported in 2011(2)LW 648.

For Petitioner : Mr.S.Muthukumar

For Respondents : Mr.K.S.Selvaganesan

1 and 2 Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned refusal check slip in Refusal No.RFL/Aathoor/Dindigul/52/2022, dated 5.9.2022 by the second respondent and to quash the same as illegal and consequently to direct the second respondent to register the gift deed, dated 5.9.2022 presented by the Petitioner for registration without insisting for the production of the original parental document in the light of the order made by this Court in the case of Vijayandran .vs.I.G of Registration, reported in 2011(2)LW 648.

2. The case of the petitioner is that the Petitioner is doing agriculture in the land situated in S.Nos.32/5 and 32/6B measuring an extent of 2.48 acres located at Patchamalaiyankottai Village, Nilakkottai



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Taluk, Dindigul District and it belongs to one Palaniyandi, P.Jeyakumar, P.Ramar and P.Lakshmanan and they have floated 41 housing plots and other earmarked places for public purpose. Since as as agent, the Petitioner had executed a gift deed in faovur of the Honourable Governor of Tamil Nadu, through the Special Officer, Patchamalaiyankottai Village, Nilakkottai Union, Dindugul District in respect of the earmarked places. After completing all the formalities, the petitioner has presented the document for registration before the second respondent. But the second respondent has returned the same through his impugned Refusal Check Slip in Refusal No.RFL/Aathoor/Dindigul/52/2022, dated 5.9.2022 , on the ground that as per the Circular of the Department in No. 18339/C1/2012, dated 25.04.2012, original parent document should be produced. Challenging the same, the present writ petition has been filed.

3. Heard Mr.S.Muthukumar, learned counsel for the petitioner and Mr.K.S.Selvaganesan, learned Additional Government Pleader appearing for the respondents 1 and 2.



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4. Usually, the Court will direct the petitioner to give a police complaint of missing document and after receipt of non-traceable certificate, issue a publication in newspaper regarding the same and afterwards get the certified copy of the original and submit all the three documents to the concerned Registrar and the said Registrar shall consider the same and pass appropriate orders for registration. Now, the Government of Tamil Nadu, in Amendments to the Registration Rules under the Registration Act, 1908, has passed G.O.(Ms.)No.129, Commercial Taxes and Registration (J2) 5th September 2022, No.SRO.A-16(a)2022. 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



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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 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



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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.”.

5. In view of the above, this Court directs the petitioner to produce the police complaint, the non-traceable certificate, the publication of missing document issued in the local newspaper regarding the loss of original deed and the certified copy of original document issued by the Registration Department before the second respondent and



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on receipt of such documents, the second respondent is directed to consider the same and pass appropriate orders, 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.

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Index: Yes/No
Internet: Yes/No
vsn

To

1. The Inspector General of Registration,
Tamil Nadu Registration Department,
No.100, Santhome High Road,
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2. The Sub-Registrar,
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