



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 28.09.2022

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.22714 of 2022

Michael

..Petitioner

Vs

1.The District Collector,
Madurai District,
Madurai.

2.The Sub-Registrar,
Office of Theppakulam SRO,
Madurai.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the second respondent to register the sale deed by accepting the certified copy of the parental sale deed vide Document No.4125/1973 registered at the Office of SRO, Tallakumam on the basis of the Petitioner's representation, dated 14.09.2022.

For Petitioner :Mr.M.Sankar

For Respondents:Ms.S.Jayapriya
1 and 2 Government Advocate

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Mandamus directing the second respondent to register the sale deed by accepting the certified copy of the parental sale deed vide Document No.



4125/1973 registered at the Office of SRO, Tallakumam on the basis of the Petitioner's representation dated 14.09.2022.

2.Mr.S.Jayapriya, learned Government Advocate takes notice for the respondents 1 and 2. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3.The case of the petitioner is that the Petitioner's father Gnanaprakasam had purchased a plot bearing No.207 situated at R.S.No. 299/1, measuring an extent of 2 acres and 50 cents and R.S.No.299/2 and R.S.No.300/1, measuring an extent of 10 acres. 36 cents in total vide sale deed in Doc.No.4125/1973 registered at the Office of Sub-Registrar Office, Tallakulam and the same was in his possession. While so, on 23.6.2021, the Petitioner's father died.The Petitioner is one of the legal heirs of his deceased father and also got the death certificate and legal heir ship certificate in his favour. In such circumstances, the Petitioner and others want to sell the above said property and at that time, he found that the parental document in Doc.No.4125/1973 is missing. Therefore the Petitioner applied for certified copy of the parental sale deed and got the same from the office of the second respondent and the files of the concerned parental sale deed are already transferred from the Sub-Registrar Office,Tallakulam to the office of the second respondent. When it was presented for registration, the second respondent refused to register



the same, stating that the original sale deed has to be annexed with the original parental sale deed. Left with no other option, the Petitioner has filed this Writ Petition for the relief stated supra.

4. Usually, the Court will direct the petitioner to give a police complaint of missing document and after receipt of non-traceable certificate, issue 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 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 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 sale deed and the certified copy of original document issued by the Registration Department before the second respondent and on receipt of such documents, the second respondent is directed to consider the same and pass appropriate orders, on merits and in accordance with law,



within a period of eight weeks from the date of receipt of a copy of this order.

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6. With the above directions, the Writ Petition stands disposed of.

No costs.

28.09.2022

Index : Yes/No

Internet:Yes/No

vsn

To

- 1.The District Collector,
Madurai District,
Madurai.
- 2.The Sub-Registrar,
Office of Theppakulam SRO,
Madurai.



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V.BHAVANI SUBBAROYAN,J

vsn

ORDER MADE IN

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