



W.P.(MD)No.23020 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 30.09.2022

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THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition (MD) No.23020 of 2022

N.Palanisamy

.. Petitioner

Versus

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

2.The Sub-Registrar,
Chinna Tharapuram, Aravakuruchi Taluk,
Karur District – 639 202.

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the second respondent in his proceedings in Refusal Number.RFL/Chinna Tharapuram/31/2022, dated 15.09.2022, refusing to register the Settlement Deed, dated 14.09.2022, presented by the petitioner in favour of his daughter C.Selvi, quash the same and consequently, direct the second respondent to register the Settlement Deed, dated 14.09.2022, presented by the petitioner on 15.09.2022, in respect of the property, measuring an extent of 17 ³/₄ cents, found in Survey No.1318/A2B, situated at Thenniali Keelpagam Village, Pugalur Taluk, Karur District, in favour of his daughter C.Selvi, W/o.Chidhamparam.



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For Petitioner : Mr.K.Anna
For Respondents : Ms.S.Jayapriya
Government Advocate

ORDER

The petitioner has prayed for issuance of a Writ of Certiorarified Mandamus, to quash the order passed by the second respondent, in his proceedings in Refusal Number.RFL/Chinna Tharapuram/31/2022, dated 15.09.2022, refusing to register the Settlement Deed, dated 14.09.2022, in respect of the property, measuring an extent of 17 $\frac{3}{4}$ cents, in Survey No. 1318/A2B, situated at Thenniali Keelpagam Village, Pugalur Taluk, Karur District, presented by the petitioner in favour of his daughter C.Selvi, and consequently, direct the second respondent to register the same, in favour of his daughter.

2.The petitioner submits that the property in S.No.1318/A2B, measuring an extent of 3 Acres and 88 Cents (1.57.00 Ares), situated at Thennilaikeelpagam Village, Pugalur Taluk, is his ancestral property. On 23.05.2002, the petitioner purchased lands, measuring an extent of 17 $\frac{3}{4}$ cents, for transporting purpose in the above Survey No.1318/A2B, which is adjacent to the petitioner's land from one Ramasamy, S/o.Palanichamy Gounder and his son namely, R.Chandrasekaran, S/o.K.P.Ramasamy, for a sale consideration of Rs.3,600/- under a registered sale deed in Document No.467/2003, on the file of the second respondent herein.



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3.The petitioner is enjoying the lands peacefully without any hindrance and is regularly paying the revenue assessments under joint Patta No.1238.

Now, due to his old age, the petitioner decided to execute a settlement of above properties in favour of his daughter namely, C.Selvi, W/o.Chidhamparam of Karaipalayam. The original registered sale deed namely, Document No.467 of 2003 has been missing while shifting his house. As such, on 24.08.2022, the petitioner got the certified copy of the sale deed from the second respondent. Thereafter, on 15.09.2022, the petitioner presented the settlement deed, dated 14.09.2022, bequeathing the above said 17 ³/₄ cents in favour of her daughter for registration. Having received the settlement deed dated 14.09.2022, the second respondent passed an order in Refusal No.RFL/Chinna Tharapuram/31/2022, dated 15.09.2022, refusing to register the petitioner's document stating that non-production of previous original Document No.467 of 2003, for verification. Challenging the said order, the petitioner has come up with the present Writ Petition for the relief stated supra.

4.Heard Mr.K.Anna, learned counsel for the petitioner and Ms.S.Jayapriya, learned Government Advocate appearing for the respondents.



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5.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. 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



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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."



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6. 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 second respondent/Sub-Registrar will not register the same. Hence, the petitioner is directed to produce all those documents before the second respondent to enable him to register the settlement deed. On receipt of such documents, the second respondent is directed to consider the same and register the settlement deed, within a period of eight weeks from the date of receipt of a copy of this order.

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

Index : Yes/No
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To

30.09.2022

1. The Inspector General of Registration,
Registration Department,
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2. The Sub-Registrar,
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V.BHAVANI SUBBAROYAN, J.

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