



W.P.(MD)No.24371 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 26.10.2022

CORAM

**THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN**

Writ Petition (MD) No.24371 of 2022

Rathinamani, W/o.A.P.Palaniyappan

.. Petitioner

Versus

1.The District Registrar,  
Dindigul District.

2.The Sub-Registrar,  
Authoor Taluk,  
Dindigul District.

.. 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 impugned order passed by the second respondent in his proceedings in RFL/Authoor - Dindigul/126/2021, dated 31.12.2021 and the further order of the first respondent in Na.Ka.No.86/Aa1/2022, dated 19.01.2022, confirming the order of the second respondent, quash the same as arbitrary, illegal and without jurisdiction and further direct the respondents to register the settlement deed executed by the petitioner, dated 31.12.2021.

For Petitioner : Mr.H.Lakshmi Shankar

For Respondents : Mr.K.S.Selvaganesan  
Additional Government Pleader

### **ORDER**

The petitioner has prayed for issuance of a Writ of Certiorarified

<https://www.mhc.tri...> Mandamus, to quash the order passed by the second respondent, in his



W.P.(MD)No.24371 of 2022

proceedings in RFL/Authoor - Dindigul/126/2021, dated 31.12.2021 and the further order of the first respondent in Na.Ka.No.86/Aa1/2022, dated 19.01.2022, confirming the order of the second respondent, and further direct the respondents to register the settlement deed executed by him, dated 31.12.2021.

2.Heard Mr.H.Lakshmi Shankar, learned counsel appearing for the petitioner and Mr.K.S.Selvaganesan, learned Additional Government Pleader, who takes notice for the respondents. By consent of both sides, the Writ Petition is taken up for final disposal at the admission stage itself.

3.The petitioner submits that he and his mother-in-law had executed two separate settlement deeds on 10.01.1994 in favour his second son namely, Uthamakumar. Unfortunately, he died on 08.08.1999, leaving behind the petitioner, his wife and two daughters. Therefore, the petitioner is entitled to 1/4<sup>th</sup> share in the property and executed a Will, bequeathing his share in the property in favour his grandson namely, Susil, S/o.R.P.Uthamakumar, in the year 2021 and duly notarized it on 24.04.2021. Subsequently, the petitioner executed a settlement deed, dated 31.12.2021, bequeathing his rights in the properties to his grandson Susil and presented it for registration before the second respondent. The second respondent refused to register the same only on the ground that the original title documents in favour his younger son



W.P.(MD)No.24371 of 2022

the original document and it may be with his daughter-in-law or his granddaughters and the petitioner has no contact with them for the past 22 years. Though the petitioner tried to ascertain the availability of the original documents, there was no fruitful response.

4.The petitioner further submits that there is no requirement under law that only on production of the original title document, any subsequent transfer or conveyance can be registered, particularly, when the transferor/executant is only a sharer in the property. It cannot be excepted that there can be original title document readily available with every sharer and their inability to produce the original document cannot curtail their right as a co-sharer/co-owner to deal with the property. Hence, the petitioner filed an appeal to the first respondent/District Registrar, Dindigul, aggrieved over the order dated 13.12.2021 of the second respondent/Sub-Registrar, Authoor. The first respondent/Appellate Authority had passed the impugned order, confirming the order of the second respondent, by relying upon a Circular of the Inspector General of Registration, dated 25.04.2012, wherein it has been stated that registration should be done only on production of original title documents. The said Circular is against the provision of the Registration Act and the Rules framed thereunder. This Court, in umpteen number of cases, has held that this Circular is bad in law and it has no basis for refusing to register the



W.P.(MD)No.24371 of 2022

documents. Hence, the petitioner has come up with the present Writ Petition for the relief stated supra.

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*



WEB COPY



W.P.(MD)No.24371 of 2022

*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*



W.P.(MD)No.24371 of 2022

(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.”

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 16 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  
smn2

26.10.2022

To

1. The District Registrar,  
Dindigul District.

<https://www.mhc.tn.gov.in/judis>



W.P.(MD)No.24371 of 2022

2.The Sub-Registrar,  
Authoor Taluk,  
Dindigul District.



WEB COPY



W.P.(MD)No.24371 of 2022

**V.BHAVANI SUBBAROYAN, J.**

smn2

Order made in  
W.P.(MD) No.24371 of 2022

26.10.2022