



W.P.(MD)No.25119 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.11.2022

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THE HONOURABLE Mrs. JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition (MD) No.25119 of 2022

Venkadajalamoorthy, S/o.Veeramahali

.. Petitioner

Versus

1.The District Registrar,
Office of the District Registrar,
Sivagangai – 630 562.

2.The Sub-Registrar,
Sub-Registrar Office,
Manamadurai Taluk,
Sivagangai District – 630 606.

.. Respondents

Prayer:-Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the second respondent to register sale deed of the petitioner, on the file of the second respondent, vide Temporary Acknowledgment No.TP/135881399/2022, dated 27.10.2022, within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.R.Senthilkumar

For Respondents : Ms.S.Jayapriya
Government Advocate

ORDER

The petitioner has prayed for issuance of a Writ of Mandamus, directing

the second respondent to register his sale deed, vide Temporary



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Acknowledgment No.TP/135881399/2022, dated 27.10.2022, within a time frame.

2. According to the learned counsel for the petitioner, the petitioner's father namely, Veeramahali had purchased a land in S.No.14/5B, measuring an extent of 0.06.0 Hectare (15 cents), from one K.Muthu and Duraimurugan on 10.04.2000 through a registered sale deed, bearing Document No.917/2000, on the file of the second respondent. Thereafter, on 28.12.2021, the petitioner's father executed a registered settlement deed in respect of the said property, bearing Document No.4212 of 2021, in favour of the petitioner. While so, the petitioner's brothers and sister had filed a partition suit in O.S.No.331 of 2019, before the Subordinate Court, Manamadurai, seeking partition of the property and for other reliefs. Along with the said suit, they filed I.A.No.1 of 2020 and the same has been dismissed on 18.08.2021. In the said circumstances, the petitioner intends to sell the said property to one G.Tamilselvi and presented the sale deed before the second respondent. However, the second respondent refused to register the said sale deed. Hence, the petitioner sent a representation dated 28.10.2022, to the first respondent. Since the same has not been considered so far, the petitioner has filed the present Writ Petition for the relief stated supra.



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3. Today, when the matter is taken up for hearing, the learned Government Advocate appearing for the respondents, submits that if the petitioner produces all the original relevant documents, which has been asked by the second respondent, the petitioner's request would be considered after verification of the same.

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

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



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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



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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.”

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 sale deed. On receipt of such documents, the second 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.



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

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V.BHAVANI SUBBAROYAN, J.

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