



W.P.(MD).No.25343 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.11.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.25343 of 2022

P.Gunasekaran

... Petitioner

VS.

The Sub Registrar,
O/o.the Sub Registrar,
Udankudi,
Thoothukudi District.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified Mandamus, to call for the records relating to the impugned refusal slip issued by the respondent in his proceedings in RFL/Udangudi/25/2022, dated 14.09.2022 and quash the same as illegal and consequently direct the respondent to register the Power of Attorney deed dated 14.09.2022 presented by the petitioner for registration without insisting for the registration of the prior sale deed in light of the order made by this Court in K.S.Vijayandran vs. Inspector General of Registration (2011 (2) LW 648) within the time that may be stipulated by this Court.

For Petitioner : Mr.A.Nawaz Khan

For Respondent : Mr.S.R.A.Ramachandran



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Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned Refusal Check Slip issued by the respondent dated 14.09.2022 and to quash the same and consequently direct the respondent to register the Power of Attorney deed dated 14.09.2022, presented by the petitioner for registration, without insisting for the registration of the prior sale deed, in the light of the order of this Court in ***K.S.Vijayandran vs. Inspector General of Registration (2011 (2) LW 648)***.

2. The case of the petitioner is that on 31.10.2003, he has purchased the Plot Nos.26 and 27 in EVP Avenue totally measuring an extent of 4610 sq.ft comprised in S.Nos.82/1A and 82/1B at No.43, Kolathuvancheri Village, Sriperumbudhur Taluk, Kanchipuram District by way of registered sale deed. Thereafter, he was in possession and enjoyment of the same. The petitioner was living in Chennai for the purpose of employment. Hence, he has decided to appoint a person to



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look out his property and made a power of attorney deed in favour of one Mr.Kumar, a power agent. When he presented the said power of attorney deed for registration, the respondent refused to register the same and issued the impugned refusal check slip in RFL/Udangudi/25/2022, dated 14.09.2022, on the ground that original parent document should be produced. Challenging the same, the present writ petition has been filed.

3. Heard Mr.A.Nawaz Khan, learned counsel for the petitioner and Mr.S.R.A.Ramachandran, learned Additional Government Pleader appearing for the respondent.

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



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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



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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



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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 respondent and on receipt of such documents, the 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



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Index: Yes/No
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To

The Sub Registrar,
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Udankudi,
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V.BHAVANI SUBBAROYAN,J.

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