



W.P.(MD).No.26048 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.11.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.(MD)No.26048 of 2022

Subramanian

... Petitioner

vs.

1.The District Registrar,
Department of Registration,
Trichy District.

2.The Sub Registrar,
Sub Registration Office,
Musiri,
Trichy District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Mandamus, directing the first respondent to consider the petitioner's representation, dated 29.08.2022, given in person and direct the second respondent to permit the petitioner to register the settlement deed in favour of the petitioner's wife.

For Petitioner : Mr.N.Anandakumar

For Respondents : Mr.K.S.Selvaganesan

Additional Government Pleader



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ORDER

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This Writ Petition has been filed for issuance of a Writ of Mandamus, directing the first respondent to consider the petitioner's representation, dated 29.08.2022 and direct the second respondent to permit the petitioner to register the settlement deed in favour of the petitioner's wife.

2. The case of the petitioner is that he intended to execute a settlement deed in favour of his wife with regard to his share of land to an extent of 0.37 ½ cents in S.No.324/1 situated at Vaalavandhi West Vilage. Hence, he approached the second respondent to register his settlement deed in favour of his wife. But the second respondent has insisted him to produce the parental document, whereas the said document was handed over to one Gajendran by his father and other legal heirs of Maruthaiyee, at the time of selling their proportionate share to Gajendran and he is not in a position to produce the parental document before the Sub Registrar. Therefore, he has made a representation to the first respondent on 29.08.2022. Since no action has been taken by the



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first respondent, the present writ petition has been filed.

3. Heard Mr.N.Anandakumar, learned counsel for the petitioner and Mr.K.S.Selvaganesan, learned Additional Government Pleader appearing for the respondents.

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 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



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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



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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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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 second respondent and on receipt of such documents, the second respondent is directed to consider the same and pass appropriate orders, within a period of twelve weeks from the date of receipt of a copy of this order.

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

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Index: Yes/No

Internet: Yes/No

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To

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V.BHAVANI SUBBAROYAN,J.

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