



W.P.(MD).No.26455 of 2022 and batch

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)Nos.26455 to 26458 of 2022

and

W.M.P(MD)Nos.20629,20630,20631 and 20634 of 2022

- | | |
|----------------------|--|
| 1.S.Hema | ... Petitioner in W.P(MD)No.26455 of 2022 |
| 2.K.Dhakshinamoorthy |Petitioner in W.P(MD)No.26456 of 2022 |
| 3.S.Senthivel |Petitioner in W.P(MD)No.26457 of 2022 |
| 4.J.Renugadevi |Petitioner in W.P(MD)No.26458 of 2022 |

vs.

The Sub-Registrar(in the cadre of District Registrar)
Registration Department,
Arasaradi,
Madurai,
Madurai District.

... Respondent in all W.Ps'

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified Mandamus calling for the records relating to the impugned orders passed by the respondent vide his proceedings in pending document Nos.P40/2022,P41/2022,



W.P.(MD).No.26455 of 2022 and batch

P42/2022 and P43/2022, dated 28.7.2022 and 29.7.2022 respectively and quash the same and consequently to direct the respondent to register the documents, dated 28.3.2022, which was rejected by the respondent, within the time stipulated by this Court.

For Petitioner : Mr.B.Prahalad Ravi
in all W.Ps'

For Respondent : Mr.S.R.A.Ramachandran
in all W.Ps' Additional Government Pleader

COMMON ORDER

These Writ Petitions have been filed challenging the impugned orders passed by the respondent vide his proceedings in pending document Nos.P40/2022, P41/2022, P42/2022 and P43/2022, dated 28.7.2022 and 29.7.2022 respectively and to quash the same and consequently to direct the respondent to register the documents, dated 28.3.2022, which was rejected by the respondent, within the time stipulated by this Court

2. The case of the petitioners is that they have purchased the lands measuring an extent of 1280 sq.fts, 2480 sq.fts, 1600 sq.fts and



W.P.(MD).No.26455 of 2022 and batch

WEB COPY

1280 sq.fts comprised in S.No.1063/11 part bearing T.S.No.22, situated at Ward No.7, New Jail Road, Madurai Town, Madurai from one D.Arulraj, who happens to be the Secretary of Kremmer Sandegren Foundation, Pattukkottai, for valuable consideration, through registered sale deeds, dated 28.3.2022 and they are in possession and enjoyment of the same. The said documents were presented by the vendor before the respondent for registration on the same day of execution of the sale deed and the said authority placed the said documents as pending documents in document Nos.P40/2022, P41/2022, P42/2022 and P43/2022, dated 28.7.2022 and 29.7.2022 respectively, stating that the vendor has not produced the relevant documents to substantiate the title of the Petitioners over the said properties and the same was kept pending for more than four months and the vendor has not produced the relevant documents inspite of receiving notice, dated 22.7.2022. The respondent before rejecting the registration of the said documents, to look into the relevant documents and the proceedings of the Inspector General of Registration, dated 20.6.2020 directing the Registration Department to register those documents presented by the Vendor of the Petitioners



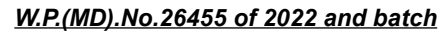
W.P.(MD).No.26455 of 2022 and batch

namely the copy of the resolution and there is no bar for registration of those documents. The said fact has not been duly considered by the respondent before passing the impugned orders. Challenging the same, the present writ petitions have been filed.

3. Heard Mr.B.Prahalad Ravi, learned counsel for the petitioners and Mr.S.R.A.Ramachandran, learned Additional Government Pleader appearing for the respondent.

4.Usually, the Court will direct the petitioners to give a police complaints 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.

5.But, in this case, the original document is not found missing and the respondent has rejected the claim of the Petitioner for registration



6. 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:

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



WEB COPY



W.P.(MD).No.26455 of 2022 and batch

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 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



WEB COPY



W.P.(MD).No.26455 of 2022 and batch

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."

7. In view of the above, this Court directs the petitioners or their vendor to produce the certified copies of the relevant documents to



W.P.(MD).No.26455 of 2022 and batch

substantiate the vendor's title over the properties, which has been brought for sale under the sale deeds in question and present it 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.

8. With the above directions, these Writ Petitions are disposed of.
No costs. Consequently, connected Miscellaneous Petitions are closed.

23.11.2022

Index: Yes/No
Internet: Yes/No
vsn

To

The Sub-Registrar (in the cadre of District Registrar)
Registration Department,
Arasaradi,
Madurai,
Madurai District.



WEB COPY



W.P.(MD).No.26455 of 2022 and batch

V.BHAVANI SUBBAROYAN,J.

vsn

COMMON ORDER MADE IN

W.P(MD)Nos.26455 to 26458 of 2022

23.11.2022