



W.P.(MD).No.27156 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2022

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.27156 of 2022

Selvam

... Petitioner

vs.

1.The Sub-Registrar,
Karivalamvandanallur,
Tenkasi District.

2.The Inspector of Police
Karivalamvandanallur Police Station,
Tenkasi District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified Mandamus, to call for the records of the impugned order in RFL/Karivalamvandanallur/23/2022, dated 22.11.2022, on the file of the first respondent and quash the same as illegal and further to direct the first respondent to register the settlement deed presented by the Petitioner in favour of her daughter by name Sudha in respect of the property in S.No.1302/1A1A situated at Karivalamvandanallur Village, Sankarankoil Taluk, Tenkasi District measuring an extent of 5 cents.



W.P.(MD).No.27156 of 2022

For Petitioner : Mr.R.Jeyamohan

For Respondent-1 : Mrs.S.Jayapriya
Government Advocate

For Respondent-2 : Mr.B.Thanga Aravindh
Govt.Advocate(Crl.Side)

ORDER

This Writ Petition has been filed challenging the impugned order in RFL/Karivalamvandanallur/23/2022, dated 22.11.2022, on the file of the first respondent and quash the same as illegal and further to direct the first respondent to register the settlement deed presented by the Petitioner in favour of her daughter by name Sudha in respect of the property in S.No.1302/1A1A situated at Karivalamvandanallur Village, Sankarankoil Taluk, Tenkasi District measuring an extent of 5 cents.

2.The case of the petitioner is that he had purchased the prayer mentioned property from one S.R.C.Kanagavel by way of registered sale deed, dated 9.10.2009 and from that date onwards, he was in exclusive possession and ownership of the said property. While so, the Petitioner had lost the original sale deed and hence, preferred a complaint before



W.P.(MD).No.27156 of 2022

WEB COPY

the second respondent on 12.3.2021 bearing Complaint No.CSS21037431 and the said complaint is still pending. Now the Petitioner wants to settle the property in favour of his daughter Sudha and when the same was presented for registration with a certified copy of the parent deed, the same was refused to be registered by the first respondent by the refusal order, dated 22.11.2022. Challenging the said order, the Petitioner has filed this Writ Petition.

3. Heard Mr.K.Jeyamohan, learned counsel for the petitioner and Mrs.S.Jayapriya, learned Government Advocate appearing for the first respondent and Mr.B.Thanga Aravindh, learned Government Advocate(Crl.Side) appearing for the second respondent.By consent of both parties, the writ Petition is taken up for final disposal at the admission stage itself.

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



W.P.(MD).No.27156 of 2022

WEB COPY

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 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



WEB COPY



W.P.(MD).No.27156 of 2022

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 where Non-Traceable Certificate and the advertisement published in the local Newspaper are



W.P.(MD).No.27156 of 2022

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.”.

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 first respondent and on receipt of such documents, the first 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.



W.P.(MD).No.27156 of 2022

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

01.12.2022

Index: Yes/No
Internet: Yes/No

vsn

To

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W.P.(MD).No.27156 of 2022

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W.P(MD)No.27156 of 2022

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