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W.P.(MD)NO.28080 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.12.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.28080 of 2022

K.Peruchi

... Petitioner

Vs.

The Sub Registrar,
Sub Registrar Office,
Karukalakudi, Melur Taluk,
Madurai.

... Respondent

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for records relating to the impugned refusal slip in RFL/Karungalakudi/6/2022 dated 29.11.2022, on the file of the respondent and quash the same as illegal and consequently direct the respondent to register the documents presented by the petitioner for registration without insisting for the production of original parent document within the time that may be stipulated by this Court.

For Petitioner : Mr.Aayiram K.Selvakumar

For Respondent : Mr.S.Shanmugavel,
Additional Government Pleader.

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ORDER

Heard the learned counsel on either side.

2. The petitioner wants to execute the settlement deed in favour of his son. The respondent however had declined to entertain the document and instead issued the impugned refusal check slip. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner draws my attention to the order dated 24.08.2022 made in W.P.(MD)No.19334 of 2022. It is seen that the petitioner herein was permitted by this Court to register a similar document in favour of another son.

4. However, I am not in a position to adopt the very same approach straightaway. The learned Additional Government Pleader draws my attention to the G.O.Ms. No.129 Commercial Taxes and Registration (J2), dated 05.09.2022 wherein the following amendment had been



introduced:-

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“ 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, order 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



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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



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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



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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 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)."

5. In this view of the matter, I decline to interfere with the impugned refusal check slip. However, I permit the petitioner to re-present the document after complying with the formalities set out in the aforesaid G.O. If the twin formalities are complied with, the respondent is obliged to accept the document and complete the registration subject to fulfilment of the usual formalities.



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6. This writ petition stands disposed of. No costs.

14.12.2022

Index : Yes / No

Internet : Yes/ No

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To:

The Sub Registrar,
Sub Registrar Office,
Karukalakudi, Melur Taluk,
Madurai.



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G.R.SWAMINATHAN,J.

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