



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.18806 of 2023

Bakkiyam

Petitioner

vs.

1.The Sub Registrar,
Omalur,
Salem District.

2.Selvam

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, call for the records of the 1st respondent in relates to refusal number RFL/Omalur/124/2023 dated on 12.05.2023 and quash same in the light of judgment in K.S.Vijayandran Vs IG of Registration 2011(2) LW 648 and direct the 1st Respondent to Register the Settlement Deed.

For Petitioner : Mr.J.Franklin

For Respondents : Mr.D.Ravichander
Special Government Pleader for R1

ORDER

The refusal cheque slip issued by the 1st respondent has been put to challenge by the petitioner.



2. Heard Mr.J.Franklin, learned counsel appearing on behalf of the petitioner and Mr.D.Ravichander, learned Special Government Pleader appearing on behalf of the 1st respondent.

3. The petitioner presented the Settlement Deed for Registration before the 1st respondent on 12.05.2023. The same was refused to be registered by the 1st respondent on the ground that the original parent document was not submitted by the petitioner. Accordingly, the refusal cheque slip was issued and the same has been put to challenge in this writ petition.

4. The issue involved in the present writ petition is squarely covered by the earlier order passed by this Court in **Ananthi v. District Registrar, Vellore District and another** reported in **2023 1 CWC 533** wherein, it was held that the Sub-Registrar cannot insist for the production of the original parent document as a condition precedent for the registration of the document. For proper appreciation, the relevant portion is extracted hereunder:

6. Second proviso deals with the ancestral property. It is stated that only when the original document is not available, as the property being an ancestral one, the revenue records evidencing the executant's right be produced. While framing such Rule, the Government has not taken into consideration of the fact



that the partition deeds are entered among the co-owners.

Normally, original partition deed will be retained by anyone of the family member. In fact, there may be a situation, wherein, the person who will be in possession of the original partition deed, may not be willing to produce the documents. If such original is not produced as required under this Rule, the other members of the family cannot deal with the property. This aspect has not been taken into consideration, while framing the Rules.

5.The refusal cheque slip issued by the 1st respondent is liable to be interfered by this Court and accordingly, the same is hereby set aside. There shall be a direction to the 1st respondent to entertain the document submitted by the petitioner and register the same, if it otherwise satisfies all the other requirements and it shall be handed over to the petitioner after registration.

6.This writ petition stands allowed with the above directions. No Costs.

27.06.2023

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation Case : Yes/No

SSR

Note:Issue Order Copy by 03.07.2023



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N. ANAND VENKATESH, J.

SSR

To

The Sub Registrar,
Omalur,
Salem District.
Salem District.

W.P No.18806 of 2023

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