



W.P.No.25744 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2023

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.25744 of 2023

R.S.S.Manikandan

... Petitioner

versus

1.The Inspector General of Registration,
No.100, Santhome High Road,
Mullima Nazgar, Mandavelipakkam,
Raja Annamalai Puram, Chennai – 28.

2.The Registrar,
Chennai Central Joint II,
Nungambakkam,
Chennai – 600 034.

...Respondents

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order made in refusal check slip dated 17.08.2023 in RFL/Chennai Central Joint II/24/2023 and quash the same and consequently direct the second respondent to register the General Power of attorney dated 17.08.2023 by verifying certified copy of settlement deed and release deed without insisting for original parent deed.

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For Petitioner : Mr.T.N.Rangesh Kanna

For Respondents : Mr.V.Veluchamy
Additional Government Pleader

ORDER

This Writ Petition has been filed to quash the impugned order made in refusal check slip dated 17.08.2023 in RFL/Chennai Central Joint II/24/2023 and consequently direct the second respondent to register the General Power of attorney dated 17.08.2023 by verifying certified copies of settlement deed and release deed, without insisting for original parent deed.

2. According to the petitioner, his father R.S.S.Somanathan was the absolute owner of the petition mentioned property comprised in Re-survey No.622/2 and the petitioner's father has purchased the property measuring an extent of 1920 sq.ft with superstructure in New S.No.622/60 from one Andalammal by way of sale deed vide Doc.No.985/1974 dated 03.07.1974. Subsequently, the petitioner's father executed settlement deed in favour of his wife R.S.S.Kamatchi and his brother's wife Dhanalakshmi vide Doc.No.102/1977 on the file of the SRO, T.Nagar. Subsequently, the said



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Dhanalakshmi executed a release deed in favour of the petitioner's mother vide Doc.No.817/2015 dated 04.03.2015. Thereafter, the petitioner's mother entered into Joint Development Agreement dated 08.07.2015 with one M/s.VSU Properties Pvt., Ltd., as such 40% share was allotted to the petitioner's mother and 60% share was allotted to the developer in the said properties. Thus, the petitioner's mother sold flat No.S1 in favour of one Mr.Antony Jackson and Saraswathi by way of a sale deed vide Doc.No.640/2018 dated 13.06.2018 measuring an extent of 406 sq.ft UDS out of 1920 sq.ft landed property. After the demise of the petitioner's parents, the petitioner is the absolute owner of the subject properties. The petitioner decided to appoint Mr.C.Babuji as power agent for the subject properties and that he presented the documents relating to the properties for registration, however, the second respondent has refused to register the same and insisted the petitioner to produce the original parent deed. Assailing the said impugned order, the petitioner is before this Court.

3. The learned counsel for the petitioner relied on an order reported in 2011-2-L.W.648 [K.S.Vijayendran vs. The Inspector General of



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Registration, Chennai and others] and submitted that none of the provisions of the Act or the Rules contemplate the Registrar to require the party appearing before him for presenting document to produce the original title deeds relating to the property so as to satisfy himself about the ownership of the executant in respect of the property. The second respondent without following the settled principles of law passed the impugned order and hence, the same is liable to be set aside.

4. The learned Additional Government Pleader appearing for the respondents submitted that as per Rule 55-A(i) of the Registration Rules, the presentant has to produce the original parent document before the Registering Authority while registering the document. In the present case, the petitioner has not produced the original parent document, therefore, the Sub Registrar is not in a position to register the document, without production of original parent document.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused



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the materials available on record.

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6. In the facts and circumstances, it is useful to extract Rule 55-A(i) of the Registration Rules, which reads as follows:

"Rule 55-A(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:

[this Proviso (i) has been struck down by this Court in the decision reported in 2023(2) CTC 289 *[Federal Bank Ltd., Vs. Sub Registrar, Office of the Sub Registrar, Pollachi and others]*

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



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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."

7. Rule 55-A(i) of the Registration Rules is a mandatory provision and as per the Proviso 1 of the said Rule, the petitioner has to produce the original parent document before the Registering Authority, while registering the document, in case, he is not in a position to produce the same, he has to follow the Proviso 2, 3 and 4 as contemplated under the said Rule as the case may be. It is seen that according to the petitioner, the original parent document of the petition mentioned properties was not available with him and because of the non-production of the original parent document, the second respondent refused to register the said document.

8. Considering the facts and circumstances and submissions made,



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this Court does not find any perversity in the impugned refusal check slip dated 17.08.2023 passed by the second respondent.

9. Accordingly, this Writ Petition is disposed of. However, liberty is granted to the petitioner to work out his remedy in the manner known to law, after compliance of the Provisions of Rule 55-A(i) of the Registration Rules. There shall be no order as to costs.

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Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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P.VELMURUGAN, J.,

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