



W.P.No.29011 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2023

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.29011 of 2023
and
W.M.P.No.28589 of 2023

Arthanareeswaran

... Petitioner

versus

The Sub Registrar,
Bhavani Sub Registrar Office,
Erode District.

... Respondent

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus calling for the records relating to the impugned refusal Check Slip dated 13.09.2023 in RFL/Bhavani/114/2023 quash the same and consequently direct the respondent to register the partition deed dated 13.09.2023 without insisting for production of original parent document and accepting the certified copy.

For Petitioner : Mr.R.Prabakar

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader



W.P.No.29011 of 2023

ORDER

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This writ petition has been filed to quash the impugned refusal Check Slip in RFL/Bhavani/114/2023, dated 13.09.2023 and consequently to direct the respondent to register the partition deed dated 13.09.2023 without insisting for production of original parent document and accepting the certified copy.

2. The case of the petitioner is that the petitioner's father late Muthusamygounder is the absolute owner of the petition mentioned property, by virtue of registered sale deed dated 15.12.1986, vide Doc.No.2647 of 1986 on the file of the respondent. After the demise of the petitioner's father, the said property was inherited by the petitioner and his sister and brother and they are in peaceful possession and joint enjoyment of the said property. Since joint enjoyment was not convenient, they have decided to partition the property and they entered into a partition deed dated 13.09.2023. As per the partition deed, 'A' schedule property was allotted to the petitioner and 'B' schedule property was allotted to his brother and sister. Further case of the petitioner is that, the original sale deed dated



W.P.No.29011 of 2023

15.12.1986, vide Doc.No.2647 of 1986 in the name of the petitioner's father is misplaced and they could not trace the same, however, the certified copy of the sale deed is available with them. Further, the said sale deed was registered on the file of the respondent herein and they can very well verify the genuineness and authenticity of the said document. However, when the petitioner presented the documents for registration, the respondent rejected the same stating that the original sale deed which was standing in the name of the petitioner's father in the year 1986, was not produced and accordingly, the respondent returned the document. Aggrieved by the same, the petitioner is before this Court.

3. The learned counsel for the petitioner submitted that the petition mentioned property is the house site, which is purchased by the petitioner's father, vide registered sale deed 15.12.1986, vide Doc.No. 2647 of 1986. After the demise of the petitioner's father in the year 2005, his legal heirs have entered into the partition deed. When the said deed was presented for registration, the same was refused by the respondent for want



W.P.No.29011 of 2023

of original sale deed. The refusal of register sale deed by the respondent is per se arbitrary, illegal and the unsustainable in law.

4.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



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W.P.No.29011 of 2023

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."

5. Rule 55(A)(i) of the Registration Rules, clearly shows that the registering officer before whom a document relating to immovable property is presented for registration, the presentant has to produce the original title deed, by which, the executant acquired right over the subject property. Proviso (i) to Rule 55A(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, Office of the Sub Registrar, Pollachi and others]**

6. On a perusal of the impugned refusal order, it is seen that



W.P.No.29011 of 2023

since the petitioner has not produced the original sale deed to prove their title, the respondent refused to register the said document and the petitioner has not followed and complied with the proviso 3 to Rule 55A(i) of the Registration Rules in the manner known to law. Therefore, this Court does not find any illegality or perversity or infirmity in the impugned refusal order passed by the respondent.

7. Under the above circumstances, this Court does not find any merit and this Writ Petition is dismissed. However, the petitioner is at liberty to work out his remedy in the manner known to law. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

19.10.2023

Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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W.P.No.29011 of 2023

To

The Sub Registrar,
Bhavani Sub Registrar Office,
Erode District.

Pg.Nos.7/8



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W.P.No.29011 of 2023

P.VELMURUGAN, J.

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W.P.No.29011 of 2023

19.10.2023

Pg.Nos.8/8