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W.P.No.29694 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.29694 of 2023

S.Mubarak Ali

...

Petitioner

/vs/

1.The District Registrar
Nammakkal District.

2.The Sub-Registrar,
Pallipalayam,
Nammakkal District.

...

Respondents

PRAYER : The writ petition has been filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, calling for records pertaining to the proceedings of the 2nd respondent in Ref.No.RFL/Pallipalayam/69/2023 dated 21.09.2023 and quash the same and consequently, direct the 2nd respondent to register the sale deed dated 20.09.2023 presented by the petitioner, in accordance with provisions of the Registration Act, 1908.

For Petitioner

...

Mr.S.Viswanathan

for M/s.Dass and Viswa Associates

For Respondents

...

Mr.Yogesh Kannadasan

Spl.Government Pleader



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ORDER

WEB COPY The writ petition has been filed to issue a Writ of Certiorarified Mandamus calling for records pertaining to the proceedings of the 2nd respondent in Ref.No.RFL/Pallipalayam/69/2023 dated 21.09.2023 and quash the same and consequently, direct the 2nd respondent to register the sale deed dated 20.09.2023 presented by the petitioner in accordance with provisions of the Registration Act, 1908.

2.The case of the petitioner is that the petitioner presented the sale deed dated 20.09.2023 for registration before the second respondent and obtained token No.TP/160133910/2023 on 21.09.2023, but the second respondent refused to register the abovesaid sale deed on the ground that the petitioner has not produced the original parent document and issued a Refusal Check Slip vide Ref.No.RFL/Pallipalayam/69/2023 dated 21.09.2023 based on the circular No.22482/C1/2022 dated 02.02.2023 issued by the Inspector General of Registration, Chennai. Despite his personal explanation about the custody of the original parent document with his brother Syed Mustafa, who is acting against the interest of the



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petitioner, the second respondent, without any valid ground, refused to entertain the sale deed for registration. The second respondent does not have any authority to demand the original parent document and if it is the ancestral property, they can only verify the document. This Court, time and again, has given a direction not to insist on the original parent document for registration and it is enough to produce the certified copy. However, the second respondent refused to register the document by demanding the original parent document and issued the impugned Refusal Check Slip. Hence, the present writ petition has been filed.

3.The learned counsel appearing for the petitioner vehemently contended that Rule 55 (A) (i) of the Tamil Nadu Registration Rule is very clear that the registering authority shall verify the Revenue Records, when the property is in the nature of ancestral character. Further, he submitted that the petitioner's brother filed a civil suit in O.S.No.185 of 2011 on the file of the Principal District Munsif Court, Tiruchengode, against the petitioner to declare the earlier sale deed in Doc.No.1198/2011 executed by the petitioner is null and void, which goes to show that there



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is a tainted relationship between the petitioner and his brother and therefore he is not in a position to produce the original parent document.

4. Heard the submission made by the learned Special Government Pleader appearing for the respondents.

5. I have considered the matter in the light of the submissions made by the learned counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

6. On a perusal of the impugned Refusal Check Slip, it is seen that while refusing the document for registration, the second respondent has stated that in the event of refusal to submit the original document of a property purchased by either father or the mother, by any one of the legal heirs, who has custody of the same, after the demise of the parent, then all the legal heirs will be called for an enquiry by the District Registrar. The impugned order further states that in such circumstance, if any of the legal heir failed to appear or refuse to produce the original documents, then the



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enquiry officer, after getting undertaking affidavits, from those who appeared for the enquiry and from others, who were called for enquiry, can permit the registration of the document. Further, the petitioner asked to resubmit/represent the document for registration, after getting permission from the District Registrar as per circular No.22482/C1/2022 dated 02.02.2023.

7. Admittedly, as per Rule 55(A)(i) of the Tamil Nadu Registration Rules, while registering the document, the original parent document has to be produced by the presentee before the Sub Registrar and it is mandatory. Therefore, considering Rule 55 (A) (i) of the Tamil Nadu Registration Rules, this Court does not find any perversity or illegality in the Refusal Check Slip issued by the second respondent and the petitioner has also alternative remedy. Under such circumstances, the petitioner is directed to approach the second respondent in the manner known to law. Accordingly, the writ petition is dismissed. No costs.

Index : Yes/No
Speaking Order : Yes/No
Neutral Case Citation: Yes/No
sms

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To
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- 1.The District Registrar
Nammakkal District.
- 2.The Sub-Registrar,
Pallipalayam,
Nammakkal District.



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P.VELMURUGAN,J.

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