



W.P.No.31252 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2023

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.31252 of 2023

Muthayi

... Petitioner

versus

1.The Inspector General of Registration,
Santhome High Road,
Mylapore, Chennai.

2.The Sub Registrar,
Office of the Sub Registrar,
Paramathi, Namakkal District.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned refusal check slip issued by the second respondent in his proceedings in Refusal Number : RFL/PARAMATHI/139/2023 dated 16.10.2023 and quash the same and consequently direct the second respondent to register the Settlement deed dated 16.09.2023 presented by the petitioner with the Certified Copy of the Previous Title Document i.e. the Registered sale deeds vide Document Nos.1) 991 of 1974 dated 31.05.1974, ii) 693 of 1976 dated



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17.06.1976, iii) 116 of 1989 dated 10.05.1989 on the file of the second respondent.

For Petitioner : Mr.J.Jayan
for Mr.W.Camyles Gandhi

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

Mr.Yogesh Kannadasan, learned Special Government Pleader takes notice for the respondents. With the consent of both the parties, this writ petition is disposed of at the admission stage itself.

2. This writ petition has been filed to quash the impugned refusal check slip issued by the second respondent in his proceedings in Refusal Number : RFL/PARAMATHI/139/2023 dated 16.10.2023 and consequently to direct the second respondent to register the Settlement deed dated 16.09.2023 presented by the petitioner with the Certified Copy of the Previous Title Document i.e. the Registered sale deeds, vide Document Nos.1) 991 of 1974 dated 31.05.1974, ii) 693 of 1976 dated 17.06.1976, iii)116 of 1989 dated 10.05.1989 on the file of the second respondent.



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3. The brief facts of the case are as follows :

(i) The petitioner's deceased husband originally purchased the properties in S.Nos.289 and 2288/2, measuring an extent of 7 Acres 22 Cents and 3 Acres 70 Cents, respectively situated at Sittampoondi Village, Agriculture Land, Paramathi Sub-registration District, Namakkal Registration District, by way of registered sale deeds vide Doc.Nos.991 of 1974 dated 31.05.1974, 693 of 1976 dated 17.06.1976 and 116 of 1989 dated 10.05.1989 on the file of the second respondent. Since then, he is in possession and enjoyment of the said properties and all the revenue records stand in his name and subsequently, he died on 16.05.2004, leaving behind the petitioner herein as his legal heir succeeding his estate pertaining to the said properties. After his death, the revenue records were mutated in the name of the petitioner in respect of the subject properties.

(ii) Since the petitioner has no issues, she decided to settle the subject properties in favour her sister's daughter and also executed a settlement deed dated 16.09.2023. While so, the said settlement deed was presented for



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registration before the second respondent, but the same was refused by the second respondent for want of original parent documents. Further, the petitioner is having only the certified copies of the said documents, as the original documents are destroyed in view of termites. The petitioner also presented the certified copies of the said documents, however, the second respondent had not accepted the said certified copies and passed an impugned refusal order. Assailing the said order, the petitioner is before this Court by way of filing a writ petition.

4. It is seen from the records that though the petitioner has not filed the original parent documents, the second respondent refused to register the said settlement deed and returned the same directing the petitioner to re-present the document along with original parent documents. As contended by the learned counsel for the petitioner, the original parent documents were destroyed in view of termites, and the petitioner submitted the certified copy of the documents before the second respondent, but the second respondent has not accepted the same.



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5. 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 executant's right over the subject property such as



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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."

6. 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. Admittedly, the petitioner has not produced the original parent documents to prove her title, and hence, the respondent refused to register the said document and the petitioner has not followed and complied with the proviso III to Rule 55A(i) of the Registration Rules in the manner known to law.



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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.

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Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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To

- 1.The Inspector General of Registration,
Santhome High Road,
Mylapore, Chennai.
- 2.The Sub Registrar,
Office of the Sub Registrar,
Paramathi, Namakkal District.



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