



W.P(MD)No.1613 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.1613 of 2023

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... Petitioner

Vs.

The Sub Registrar,
Office of the Sub Registrar Office,
Devakottai,
Sivagangai District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned refusal check slip in RFL/Devakottai/28/2022, dated 20.10.2022 and quash the same and consequently, direct the respondent to register the document without insisting for the production of original parent document within a time that may be stipulated by this Court.

For Petitioner : Mr.D.S.Haroon Rasheed

For Respondent : Mr.S.Shanmugavel
Additional Government Pleader



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ORDER

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Heard the learned counsel on either side.

2. The petitioner's father had executed the petition mentioned gift settlement deed in favour of the petitioner. It was presented for registration. On account of non-submission of the parent deed in original, the document was not entertained and instead, the impugned refusal check slip was issued. Challenging the same, the present writ petition came to be filed.

3. It has been held in more than one decision that the registering authority cannot refuse the registration of the document for non-production of the original parent deed.

4. My attention is drawn to the order dated 28.07.2022 made in W.P(MD)No.19832 of 2021 (***Palanisamy Vs The Sub Registrar, Sub Registrar Office, Keranur, Palani Taluk, Dindigul District***). Paragraph Nos. 7 and 8 of the said order read as follows:

“7. It is true that the stand of the writ petitioner is that he had lost the original document No.296 of 1989 and that he is not in a position to produce the certified copy. It has been held by a



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learned Judge of this Court in W.P.(MD)No.19745 of 2020 vide order dated 11.02.2021 (Sivanadiyan V. The Sub Registrar, Pudukottai District) that the registering authority cannot insist on production of the original title deed. It is also seen that the petitioner's name has been entered in the revenue record. The petitioner through his counsel gives an undertaking that in the document proposed to be registered, he would include the recital stating that he had lost the original settlement deed dated 24.05.1989 and that the same has not been mortgaged or deposited by way of security and that there is no encumbrance on the property. The undertaking given by the petitioner is recorded.

8. The petitioner is ready to produce the original patta. Since the petitioner is ready to comply with the statutory mandate set out in the Patta Passbook Act and in view of the undertaking given before me, the impugned refusal check slip is quashed. The petitioner is permitted to represent the document by including the aforementioned recital. The respondent shall receive the document in question and register the same and release it subject to usual formalities. This writ petition stands allowed. No costs."

The petitioner is ready to re-present the document by adhering to the procedure indicated in the aforesaid Paragraph Nos.7 and 8.



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G.R.SWAMINATHAN, J.

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5. The learned Additional Government Pleader drew my attention to the amended Rule 55A of the Registration Rules. The petitioner has to necessarily adhere to these requirements also. Subject to the petitioner fulfilling the aforesaid requirements, the respondent shall register the document on it being re-presented. The petitioner of course has to fulfil the other usual formalities also.

6. The Writ Petition is disposed of with the aforesaid direction. No costs.

02.03.2023

Index : Yes / No

Internet : Yes/ No

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To

The Sub Registrar,
Office of the Sub Registrar Office,
Devakottai,
Sivagangai District.

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