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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.08.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.12686 of 2020

G.Nandhakumar

... Petitioner

vs.

1.The Sub-Registrar,
Chokkikulam,
Madurai.

2.L.I.C Housing Finance Limited,
Represented by its Manager,
K.R.V.Arcade,
No.16/17, North Veli Street,
Madurai-1.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, quashing the order dated 15.09.2020 in RFL/Chokkikulam/5/2020 by the first respondent and directing the first respondent to register the sale deed dated 15.09.2020 without insisting on production of the original sale deed dated 01.04.1991.



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For Petitioner : Mr.M.Rajaraman

For R-1 : Mr.A.K.Manikkam,
Special Government Pleader

For R-2 :Mr.V.Veera Pandiyan
For M/s. Vast Law Associates

ORDER

This writ petition is filed to quash the order dated 15.09.2020 with a consequential direction to register the sale deed dated 15.09.2020 without insisting on production of the original sale deed dated 01.04.1991.

2. The petitioner has purchased the disputed property in Plot No.35, Vasu Nagar, Narayanapuram, Madurai. The said land originally belongs to one K.K.R.Mohanasundaram, son of K.K.Ramachandran. The said K.K.R.Mohanasundaram obtained loan from the LIC of India, Madurai Divisional Office by mortgaging the aforesaid property and he has handed over the original document to the office of LIC. Subsequently, the petitioner had redeemed the mortgage. However, the original document of said K.K.R.Mohanasundaram was



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lost by the LIC. The said vendor has also initiated proceedings against LIC. In such circumstances, the petitioner is not able to produce the original documents. The issue is already considered by several judgments of this Court. One such judgment is rendered in *W.P.(MD).No.19745 of 2020 vide order dated 11.02.2021 reported in 2021 2 CTC 526*, wherein it is held that it is a settled legal proposition that the original documents cannot be insisted for registering the document. The relevant portion of the order extracted hereunder:

8.This Court is entirely in agreement with the submissions made on behalf of the petitioner in this regard. The latest decision of the learned single Judge appears to have not considered the implication of the circular with reference to the scheme of the relevant Act. On the other hand, the above three decisions cited on behalf of the petitioner would certainly hold the field and in which event, insistence on production of original title deeds by the Registering Authority is without any authority of law. The circular issued by the Inspector General of Registration, Chennai in this regard cannot have any sanctity, unless the power of issuance of such circular is authorized under the provisions of the Act. This Court has consistently held that no such power can be read into the Act, in the absence of any specific provisions and in that view of the matter, as rightly contended by the learned counsel for the petitioner, the subject issue is no more res-integra. As far as the latest decision of the learned single Judge is concerned, being a kind of a contra view, this Court is of the opinion that the order passed by the learned single Judge of this Court in W.P.(MD) No.16768 of 2020, dated 26.11.2020 has not appreciated the provisions of the Act, as the reasons of the learned single Judge are contrary to the well considered earlier judgments of this Court. The learned Judge has reasoned without any specific reference to the scheme of the Act, which governs the registration.



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9. In fact, in one of the judgments cited by the learned counsel for the petitioner, the learned Additional Government Pleader for the respondent himself has conceded the legal position. In that view of the matter, the reliance placed by the Department on the latest order of the learned single Judge needs to be held as not valid.

10. In the above circumstances, the impugned refusal slip in R.F.L/1, Joint Sub-Registrar, Pudukottai /167/2020 dated 10.12.2020 is hereby set aside. The respondents are directed to register the documents presented by the petitioner for registration, if the document is otherwise in order, without insisting on the production of original parent document, in terms of the law laid down by this Court in the three decisions as cited supra.

3. Therefore following the same, this court is of the considered opinion that the respondents cannot insist the petitioner for production of original document dated 01.04.1991. Hence, the impugned order is quashed. The first respondent is directed to register the documents without insisting on production of the original documents. The said exercise shall be completed within a period of four (4) weeks from the date of receipt of a copy of this order.



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4. In view of the above, this Writ Petition is allowed. There shall be no order as to costs.

30.08.2023

Index : Yes / No
Internet : Yes
NCC : Yes / No
Nsr/Sml

To

The Sub-Registrar,
Chokkikulam,
Madurai.



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S.SRIMATHY, J

Nsr/Sml

W.P.(MD)No.12686 of 2020

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