



W.P(MD)No.11510 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.05.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.11510 of 2023

G.Arumugasamy

... Petitioner

Vs

The Sub Registrar,
Kovilpatti Sub Registrar Office,
Kovilpatti,
Tuticorin District.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 28.04.2023 in Refusal No. RFL/Kovilpatti/41/2023 passed by the respondent and quash the same and thereby direct the respondent to registrar Gift Deed dated 23.02.2022 executed the petitioner in favour of his grandson R.S.Dinesh Babu.

For Petitioner : Mr.M.Arumugam

For Respondent : Mr.M.Senthil Ayyanar
Government Advocate



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ORDER

Heard the learned counsel on either side.

2. The petitioner had executed the petition mentioned document in favour of his grandson presented for registration before the respondent. The respondent declined to register the document and returned the same and issued the impugned refusal check slip on the ground that the original parent deed has not been produced. Challenging the stand of the respondent, the writ petition came to be filed.

3. The learned counsel appearing for the petitioner states that the petitioner had mortgaged the property and the original document has been deposited with the mortgagee. That is why he is not in a position to produce the original deed. His stand is that merely because the petitioner had mortgaged the property, that cannot come in the way of dealing the property. He relied on a recent decision rendered in W.P.No.2758 of 2023 dated 08.02.2023. That apart, he also pointed out that this Court has been consistently holding that on the ground of non-production of the parent document, registration cannot be denied.



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4. I am in full agreement with the contention advanced by the learned counsel appearing for the petitioner. The decision referred by him squarely applies to the case on hand. The impugned refusal check slip is set aside. The petitioner is permitted to re-present the document in question. The respondent shall receive the same register and release it subject to the fulfilment of the other usual formalities.

5. This writ petition is allowed. There shall be no order as to costs.

11.05.2023

Index : Yes / No

Internet : Yes / No

NCC : Yes / No

MGA

To

The Sub Registrar,
Kovilpatti Sub Registrar Office,
Kovilpatti,
Tuticorin District.



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G.R.SWAMINATHAN, J.

MGA

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