



W.P(MD)No.15033 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.11.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.15033 of 2023

Murugan

... Petitioner

Vs.

The Sub Registrar,
Thiruchuli,
Virudhunagar 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 order passed by the respondent in RFL/Thiruchuli/32/2023 dated 13.06.2023 and to quash the same as illegal and consequently directing the respondent to register and release the sale deed dated 13.06.2023 forthwith for the property situated in Survey No.222/7 to an extent of 1 Acre 15 Cents situated at Alampatti Village, Aruppukkottai Taluk, Virudhunagar District without insisting for the production of original parent documents.



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For Petitioner : Mr.C.Jeya Prakash

For Respondent : Mr.M.Prakash
Additional Government Pleader

ORDER

Heard both sides.

2.The petitioner wants to buy the petition mentioned property. He said to have paid consideration to the seller also. When the sale deed was presented for registration, the registering authority had returned the document by declining to register the same. The reason set out in the impugned refusal check slip is that the parent deed, namely, Document No.196/1974 was not produced in original. Challenging the same, the present writ petition came to be filed.

3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition.

4.Rule 55A of the Tamil Nadu Registration Rules, reads as follows:



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“55A. (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:

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 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



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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.

(ii) The registering officer, on being satisfied that the description of the property contained in the document presented for registration conforms with the description of the property found in the previous original deed produced by the presentant as provided under this rule, he shall inscribe the word 'verified' on a conspicuous portion of the first page of such title deed and affix his signature with date and thereafter cause scanning of page containing such inscription as a reference document.

(iii) In case where revenue records are produced under this rule, the same shall be scanned as the main document and where Non-Traceable Certificate and the advertisement published in the local Newspaper are submitted by the presentant, the same shall be scanned as reference documents:

Provided that such verification and scanning of the previous original deed or record in the manner provided



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under this rule, shall not be construed to be an act of ascertaining the validity of the document presented for registration and also the same shall not absolve or deprive any person from the provisions contained in Parts XIV and XV of the Registration Act, 1908 (Central Act XVI of 1908).”

A learned Judge of this Court has struck down the first proviso. Other parts of the Rule remain intact. The petitioner can very well give a complaint before the jurisdictional Police. The jurisdictional Police is bound to entertain the complaint and after conducting enquiry issue Non Traceable Certificate. The petitioner can re-present the document along with the Non Traceable Certificate. When the petitioner fulfils the requirements set out in Rule 55A, the respondent is bound to register the document and release it subject to the fulfilment of the other usual formalities.

5. Granting such liberty to the petitioner and with the aforesaid direction to the jurisdictional Police and respondent, this writ petition is disposed of. Normally a document has to be presented for registration within 120 days from the date of execution. Since the petitioner’s



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document was already presented, the said limitation will not be put against the petitioner when the document is represented. There shall be no order as to costs.

23.11.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
MGA

To

The Sub Registrar,
Thiruchuli,
Virudhunagar District.



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G.R.SWAMINATHAN, J.

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