



W.P(MD)Nos.19481 & 19482 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.19481 & 19482 of 2021

N.Kannan

... Petitioner in both W.Ps.

Vs.

1.The Joint Sub Registrar (No.1)

**Madurai North,
Combined Building,
Rajagambiram,
Y.Othakadai,
Madurai.**

2.R.Papathi

**(R2 is impleaded vide order dated 20.01.2023
in W.M.P.(MD)No.17189 of 2021)**

... Respondents in both W.Ps.

Prayer in W.P.(MD)No.19481 of 2021: 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 of the respondent under his proceedings bearing number RFL/1 No.Joint Sub Registrar Madurai North / 9/ 2021, dated 05.10.2021 and quash the same as erroneous, illegal and consequently, directing the respondent to register the sale deed executed by N.Jeyakumar-1, Selvi-2, Emimal-3, Lakshmanan-4, Rajeshwari-5, Rohini-6, Kohiladevi-7 in favour of the petitioner in respect of the property comprised in UDR Resurvey



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No.144/2, Vilangudi I Bit Village, Madurai North Taluk, Madurai measuring undivided 4/10th share on the northern side 868 $\frac{3}{4}$ sq.ft without insisting the production of the original sale deed dated 21.01.1974 (Doc.No.111 / 1974) or any other original title deeds.

Prayer in W.P.(MD)No.19482 of 2021: 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 of the respondent under his proceedings bearing number RFL/1 No.Joint Sub Registrar Madurai North / 8/ 2021, dated 05.10.2021 and quash the same as erroneous, illegal and consequently, directing the respondent to register the sale deed executed by Nagalakshmi W/o Parameswaran in favour of the petitioner in respect of the property comprised in UDR Resurvey No.144/2, Vilangudi I Bit Village, Madurai North Taluk, Madurai measuring undivided 434.38 sq.ft out of Southern side 868 $\frac{3}{4}$ sq.ft without insisting the production of the original sale deed dated 26.02.2007 (Doc.No.633 / 2007) or any other original title deeds.

For Petitioner : Mr.M.Ponniah

For Respondents : Mr.S.Shanmugavel
Special Government Pleader for R1

: Mr.K.Periasamy for R2
(in both W.Ps.)

COMMON ORDER

Heard the learned counsel on either side.



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2. The writ petitioner in both the writ petitions is one and the same. The petitioner's father Thiru.N.Narayanaswamy was blessed with nine children (7 sons and 2 daughters). The petitioner's parents purchased a piece of property vide sale deed dated 21.01.1974 (Document No.111 of 1974) jointly. The southern portion of the property was settled by the mother in favour of the petitioner's two sisters on 26.02.2007 (Document No.633 of 2007).

3. The specific stand of the petitioner is that the original document dated 21.01.1974 was handed over by the petitioner's mother to the second respondent herein who is none other than the petitioner's sister. The other children have now come forward to execute their undivided share in the property in favour of the petitioner. When the two sale deeds executed in favour of the petitioner were presented for registration, the registering authority took the stand that in the absence of the production of the original document, registration cannot be done. To that effect, the impugned refusal check slips were issued. Challenging the same, the present writ petition has been filed.

4. The issue on hand is no longer *res integra*. A learned Judge of this Court in the decision reported in **2021 2 CTC 526 (Sivanadiyan Vs. The Sub**



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Registrar, Pudukotttai) has held that the registering authority cannot insist on production of the original parent document. Another learned Judge of this Court in ***W.P.(MD)No.19950 of 2021, dated 18.11.2021 (Selvam Vs. Joint Sub Registrar No.1, Karaikudi)*** held that if the relationship among the parties is under strain and one of them is having custody of the original document, it would be futile to expect the other person to produce the same.

5. Looked at from any angle, the stand taken by the registering authority is unsustainable. The impugned refusal check slips are quashed. The petitioner is permitted to re-present the document before the authority. The first respondent shall receive the same, register it and release it subject to fulfilment of other usual formalities.

6. These Writ Petitions are allowed. No costs.

01.02.2023

Index : Yes / No
Internet : Yes/ No
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To
The Joint Sub Registrar (No.1)
Madurai North,
Combined Building,
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Madurai.



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G.R.SWAMINATHAN, J.

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