



W.P.(MD) No.21522 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

W.P.(MD) No.21522 of 2021

and

W.M.P.(MD) No.18079 of 2021

Sajitha Parveen

.. Petitioner

Vs.

The Sub Registrar,
Ilayankudi,
Sivagangai District.

.. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus calling for records relating to the impugned refusal slip in R.F.I./Ilayankudi/60/2021 dated 17.11.2021 and quash the same as illegal and consequently direct the respondent to register the documents presented by the petitioner for registration without insisting for the production of original parent document and death certificate and legal heir certificates of the vendors' predecessors in title in light of the order made by this Court in K.S.Vijayandran Vs Inspector General of Registration 2011 (2) LW 648 within the time that may be stipulated by this Court.



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For Petitioner : Ms.Jesima Yasmin
For Respondent : Mr.K.S.Selvaganesan
Additional Government Pleader

ORDER

This writ petition has been filed challenging the refusal check slip issued by the respondent dated 17.11.2021 on the ground that the petitioner did not produce the original title deed and also the death certificate and legal heirship certificate of the original owner of the property.

2. The case of the petitioner is that she wanted to purchase the subject property at S.No.12/763 at Ilayankudi Town, Sivagangai District from Mohamed Afzal Khan, Syed Surat Begum and Regina Banu. The vendors of the petitioner are the legal heirs of late Mumtaz Begum. The property originally belonged to the maternal grandmother Sabiyal Beevi and maternal great-grandmother Fathima Beevi. Thereafter, the property devolved upon the legal heirs and ultimately it got vested on Mumtaz Begum. The vendors were claiming their right and title from the said Mumtaz Begum.



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3. The sale deed was executed in favour of the petitioner on 17.11.2021 and it was presented for registration before the respondent. The respondent refused to register the sale deed by issuing the impugned refusal check slip on the ground that the original document was not produced and the death certificate and legal heirship certificate of the original owner were not produced. Aggrieved by the same, the present writ petition has been filed before this Court.

4. The first reason that was assigned by the respondent while refusing to register the document was that the original title deed was not produced. This issue is squarely covered by the judgment of this Court in *Sivanadiyan vs. The Sub Registrar, Pudukottai* reported in (2021) 2 CTC 526. This order was further confirmed by the Division Bench in *Damayanthi vs. The Inspector General of Registration* reported in 2022 (1) WLR 256. In view of the same, the refusal to register the sale deed on the ground that the original title deed was not produced is unsustainable and requires the interference of this Court.



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5. The second ground on which the respondent refused to register the title deed was that the death certificate and the legal heirship certificate of the original owner were not produced. The respondent was virtually asking for a document, which is impossible to procure. The predecessor in interest had died more than seven decades back and at this length of time, it is virtually impossible to produce the death certificate and legal heirship certificate. Therefore, the legal heirs should not be prevented from dealing with the property on the ground that they did not have the death certificate and legal heirship certificate of the original owner of the property. Hence, this reason assigned by the respondent is also liable to be interfered by this Court.

6. In the light of the above discussion, the impugned check slip dated 17.11.2021 issued by the respondent is hereby set aside. There shall be a direction to the respondent to entertain the document and register the same subject to the fulfilment of all the other requirements. After registration, the document shall be released.



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7. In the result, this Writ Petition is allowed with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

22.12.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes

ABR

To

The Sub Registrar,
Ilayankudi,
Sivagangai District.



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N. ANAND VENKATESH, J.

ABR

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