



WP(MD)No.21157 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP (MD) No.21157 of 2023

1.V.P.Petchimuthu

2.P.Nagavalli

3.P.Ganesan

... Petitioners

Vs

The Sub Registrar,
Thiruparankundram,
Madurai District.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for a writ of certiorarified mandamus calling for records relating to the impugned refusal check slip No.5 of 2023 signed on 16.08.2023 and quash the same and consequently direct the respondent to register the settlement deed dated 16.08.2023 executed by the petitioners 1 and 2 in favour of the 3rd petitioner without insisting the production of original of the parent documents within the time fixed by this Court.

For petitioners : Mr.H.Arumugam

For Respondents: Mr.M.Sarangan,
Additional Government Pleader

ORDER



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The 1st and 2nd petitioners / the parents of the 3rd petitioner have proposed to settle the properties in his favour, which they have purchased by way of registered documents in the years 2000 and 2003 respectively and they have executed a settlement deed in favour of the 3rd petitioner on 16.08.2023. The settlement deed was not accepted by the respondent by referring the circular issued in Circular No.25600/C1/2018, dated 02.11.2018, insisting the petitioners to produce the original documents pertaining to the years 2000 and 2003 respectively. Aggrieved over the same this writ petition is filed.

2.The learned Counsel for the petitioner submits that one property was purchased by the 2nd petitioner by way of registered sale deed dated 10.07.2000 vide document No.3655 of 2000 and the other property was purchased by the 1st petitioner by way of registered sale deed dated 21.04.2003 vide document No.2026 of 2003. Due to their senility they are not in a position to recollect where the original documents



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are safeguarded, however, despite their best efforts, it is untracable. The original documents are neither lost nor stolen by anyone. Therefore, they have not preferred any complaint in this regard before the police. While so the respondent has refused to register the document, by referring to the above circular, which insists for production of original documents. The respondent as an alternate, has suggested to obtain a non-traceable certificate by lodging a complaint before the police and to produce the same. Though they have not lost the original documents, as suggested in the impugned order, they have also lodged a complaint before the police concerned, but they could not get the non-tracable certificate. While being so, the petitioners are prepared to file an affidavit to that effect before the respondent.

3.The learned Additional Government Pleader appearing for the respondent submits that the registering authority has to follow the instructions issued by the Inspector General of Registration vide



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Circular No.25600/C1/2018, dated 02.11.2018 and based on that circular the original documents have to be produced at the relevant point of time. If the original documents are not produced, a non-treacable certificate issued by the Police in respect of the original documents has to be produced for registering the document.

4.This Court considered the rival submissions and perused the materials placed on record.

5.The 1st and 2nd petitioners are the parents of the 3rd petitioner and they have proposed to settle their properties in favour of their son / 3rd petitioner. They claimed that they have purchased the properties by way of registered sale deeds. However, the original documents are not traceable, despite their best efforts. They are also prepared to file an affidavit before the registering authority in respect of the original documents. Therefore, they cannot be compelled to lodge a complaint that the documents are lost and get a non-traceable certificate.



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6.In view of the above, this writ petition is allowed with a direction to the respondent to register the document after obtaining an affidavit from the petitioners about the original documents, without insisting for the original documents. No costs.

04.09.2023

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

DSK

To

The Sub Registrar,
Thiruparankundram,
Madurai District.



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B. PUGALENDHI , J .

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