



WP(MD)No.21158 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP (MD) No.21158 of 2023

N.Muthumeeran

... Petitioner

Vs

1.The Sub-Registrar,
Kalakkad,
Tirunelveli District.

2.Mohaideen Fatima

3.Fathimuthu

4.Jannathul Sahitha Banu

5.Rahamath

6.Mohaideen Abdul Khader

7.Mohammed Sharustheen

8.Monna Mohammed

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for a writ of certiorarified mandamus calling for the records relating to the impuged refusal check slip in NO.RFL/Kalakkad/25/2023 dated 14.08.2023 issued by



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the 1st respondent and quash the same and consequently direct the 1st respondent to register and release the document to the petitioner within the time fixed by this Court.

For petitioners : Mr.H.Arumugam

For Respondent : Mr.M.Sarangan,
No.1 Additional Government Pleader

ORDER

The petitioner is intending to purchase a piece of land from respondents 2 to 8. He has presented the sale deed dated 14.08.2023 for registration and the same was not registered by referring the provisions of the circular that the original documents pertaining to the land has to be produced for registration.

2.The learned Counsel for the petitioner claims that the said property belongs to the mother of respondents 2 to 8 one Farithal, who purchased it through a registered partition deed dated 28.09.1968 and a registered sale deed dated 28.04.1997. The said



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Farithal sold the property to various other persons by retaining a portion of the property with her. She died on 01.08.2017. The respondents 2 to 8 are her legal heirs. Since the mother of respondents 2 to 8 sold the property to various other persons, they are not having the original partition deed dated 28.09.1968.

3.The learned Counsel for the petitioner relied on the subsequent circular issued by the Inspector General of Registration in Circular No.22482/C1/2022, dated 02.02.2023.

4.The learned Counsel for the petitioner has also relied on the orders of this Court in ***Sivanadiyan Vs Sub Registrar, Pudukottai, Pudukottai District*** reported in ***2021(2) CTC 526***.

5.The Circular in Circular No.22482/C1/2022, dated 02.02.2023 has been issued with certain guidelines to deal with Rule 55(A) of Class (f), which reads as follows:



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"(f) If the property is purchased by the Father / Mother and after his/her intestate demise, if his / her legal heirs claim that the original document is with one of the legal heirs and he / she is refusing to hand over the original deeds, then on a petition being to that effect, an enquiry shall be conducted by an Officer not below the rank of the District Registrar by calling all the legal heirs concerned. In such cases even if any of the legal heirs fail to attend the enquiry or refuses to divulge the possession of original document, then the Enquiry Officer shall permit registration on getting sworn affidavit from the presentant and others who attend enquiry to that effect. The same exercise of getting sworn affidavit can be followed in cases where all the legal heirs submit that the original documents is not in possession of any others."

6.This Court in **Sivanadiyan Vs Sub Registrar, Pudukottai, Pudukottai District** reported in **2021(2) CTC 526** has held as follows:



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"8.This Court is entirely in agreement with the submissions made on behalf of the petitioner in this regard. The latest decision of the learned single Judge appears to have not considered the implication of the circular with reference to the scheme of the relevant Act. On the other hand, the above three decisions cited on behalf of the petitioner would certainly hold the field and in which event, insistence on production of original title deeds by the Registering Authority is without any authority of law. The circular issued by the Inspector General of Registration, Chennai in this regard cannot have any sanctity, unless the power of issuance of such circular is authorized under the provisions of the Act. This Court has consistently held that no such power can be read into the Act, in the absence of any specific provisions and in that view of the matter, as rightly contended by the learned counsel for the petitioner, the subject issue is no more res-integra. As far as the latest decision of the learned single Judge is concerned, being a kind of a contra view, this Court is of the opinion that the order passed by



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the learned single Judge of this Court in W.P. (MD) No.16768 of 2020, dated 26.11.2020 has not appreciated the provisions of the Act, as the reasons of the learned single Judge are contrary to the well considered earlier judgments of this Court. The learned Judge has reasoned without any specific reference to the scheme of the Act, which governs the registration.

10.In the above circumstances, the impugned refusal slip in R.F.L/1, Joint Sub-Registrar, Pudukottai /167/2020 dated 10.12.2020 is hereby set aside. The respondents are directed to register the documents presented by the petitioner for registration, if the document is otherwise in order, without insisting on the production of original parent document, in terms of the law laid down by this Court in the three decisions as cited supra."

7.In view of the above circular and in view of the above order, this writ petition is allowed. The impugned order is set aside and the respondent is directed to register the document. No costs.



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

DSK

To

The Sub-Registrar,
Kalakkad,
Tirunelveli District.



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B . PUGALENDHI , J .

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