



W.P(MD)No.24377 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.10.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.24377 of 2023

K.Soodamani

... Petitioner

Vs.

1.The Inspector General of Registration,
Santhome High Road,
Chennai-600 028.

2.The Sub Registrar, Pudhur,
Office of Sub Registrar, Pudhur,
Vilathikulam, Thoothukudi.

... Respondents

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 and quash the proceedings of the 2nd respondent, relating to the Refusal Check Slip No.RFL/Pudhur/61/2023, dated 12.09.2023, and issue a consequential direction to the 2nd respondent to register the Release Deed, dated 12.09.2023, presented by the petitioner for registration, based on the Certified copy of the Sale Deeds, dated 19.09.1994, 23.10.1994 and 10.03.1997, bearing Document Nos.721/1994, 759/1994 and 61/1997, in the office of Sub-Registrar, Pudhur, Thoothukudi, executed in favour of the petitioner's husband, without insisting the production of non-traceable certificate and CSR receipts, with respect to Document Nos.721/1994, 759/1994 & 61 /1997 in the office of Sub Registrar, Pudhur.



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For Petitioner : Mr.V.Shathurthi Raja

For Respondents : Mr.V.Nirmal Kumar
Government Advocate for R1 & R2

ORDER

Heard both sides.

2. The document presented for registration was not accepted by the registering authority on the ground that the original parent deed had not been produced. Challenging the impugned refusal check slip, the present writ petition came to be filed.

3. The issue raised in the writ petition is no longer *res integra*. It has been decided in categorical terms in the decision reported in **2021 (2) CTC 526 (Sivanadiyan Vs. The Sub Registrar)**.

“5.The learned counsel therefore would submit that the issue as to whether the original title deeds should be produced for registration by the party concerned or whether the Registering Authority can insist on production of original title deeds as a pre-condition for registration is no more *res-integra*.

6.Mr.K.Sathiya Singh, learned Additional Government Pleader, who has entered appearance on behalf of the respondent, would submit that recently a learned single Judge of this Court in W.P.(MD) No.16768 of 2020, dated 26.11.2020, had taken a different view and he has produced a copy of the unreported order of the learned single Judge. He would rely upon the paragraph Nos.8 and 9 of the said order, which are extracted hereunder:-

“8.This Court has already considered the issue in W.P. (MD) No.2657



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of 2020, wherein, it is held that there are certain occasions where the original documents may not be available with the executor of the documents and that if there is any reasonable doubt about the identity of the person executing the documents, the original documents can be dispensed with. The entire circular issued on 25.04.2012 cannot be questioned. In fact, the circular issued by the Inspector General of Registration should be appreciated, as in order to avoid duplication of registration and fraudulent registration of the very same property, it has been issued. The contention of the respondent that the extract mentioned by him supra cannot be read in isolation and it got to be read as a whole.

9. Apart from the directions given by this Court in W.P.(MD) No. 2657/2020 dated 19.02.2020, this Court is of the view that if the Sub Registrar has got any doubt about the documents, copy of the parent documents, which is available in the office of the Sub Registrar, can very well be verified about the genuineness of the certified documents produced by the petitioner. Even assuming that the executor is a genuine person and producing fake documents, it is open to the Sub Registrar to refuse to register the document. Hence, this Court is of the view that the condition may be included in the Circular by way of amendment stating that the Sub Registrar will have to verify the records of the parent document from their office or from the office, where the said document is obtained and produced, as the Sub Registrars office have been bifurcated many times, scrutinize the same and after completely satisfied with the document, referring to those documents, he can register the same so that no prejudice would be cause to any person, more so, the buyer. Accordingly, the impugned order is set aside and the matter is remanded back to the authorities.”

7. At this, the learned counsel for the petitioner would submit that this Court has consistently held in a number of decisions that such insistence is nowhere found in the provision of the [Registration Act](#) and therefore, the latest decision of the learned single Judge may not be a correct view.



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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 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.

9.In fact, in one of the judgments cited by the learned counsel for the petitioner, the learned Additional Government Pleader for the respondent himself has conceded the legal position. In that view of the matter, the reliance placed by the Department on the latest order of the learned single Judge needs to be held as not valid.

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.



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11.The Writ Petition stands allowed, accordingly .”

Reliance on Rule 55 (A) of the Tamil Nadu Registration Rules is also misplaced in view of the decision reported in 2023 (2) CTC 289.

4. In this view of the matter, the impugned refusal check slip is quashed. The petitioner is permitted to resubmit the document in question. The second respondent will receive the same and register it and release it subject to the fulfilment of other usual formalities.

5. The Writ Petition is allowed. No costs.

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Index : Yes / No
Internet : Yes/ No
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To

1.The Inspector General of Registration,
Santhome High Road,
Chennai-600 028.

2.The Sub Registrar, Pudhur,
Office of Sub Registrar, Pudhur,
Vilathikulam, Thoothukudi.



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G.R.SWAMINATHAN, J.

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