



W.P(MD)No.28491 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 01.12.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.28491 of 2023

and

W.M.P.(MD)No.24543 of 2023

A.Malaisamy

... Petitioner

Vs.

1.The District Registrar,
Madurai District,
Madurai.

2.The Sub-Registrar,
Thamaraipatti,
At Chittampatti,
Madurai District.

... 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 in pursuant to the impugned order passed by the 2nd Respondent in Registration Refusal Check Slip in Refusal Number:RFL / Thamaraipatti / 9 / 2023 dated 07.07.2023 and quash the



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same and consequently 2nd Respondent to Register the Gift Deed presented by the petitioner in respect of the document presented by the petitioner in Temporary No. TP / 154730365 / 2023 dated 07.07.2023.

For Petitioner : Mr.M.Saravanakumar

For Respondents : Mr.K.Balasubramani,
Spl. Government Pleader.

ORDER

Heard both sides.

2.The petitioner wants to settle the petition mentioned property in favour of his wife. The settlement deed was presented for registration before second respondent. On the ground that the parent document was not produced in original, registration was refused. To that effect, the impugned refusal check slip was issued. Challenging the same, the present writ petition came to be filed.

3.One of the grounds for refusal was that the petitioner did not produce the non traceable certificate. In the typed set of papers, copy of



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the same has been enclosed. It was issued by the Sub-Inspector of Police, E-3 Anna Nagar Crime Police Station, Madurai City.

4.Of course, the petitioner has to fulfil the other formalities set out in third proviso to Rule 55(A) of the Registration Rules. My attention is drawn to Paragraph No.8 of the order dated 23.02.2023 made in W.P.(MD)No.1302 of 2023. It reads as follows:-

“8. However, what was eventually struck down was only the first proviso to Rule 55 A. In other words, the learned Judge has not struck down the remaining two provisos. As on date, the third proviso to Rule 55 A is very much holding the field. The respondent therefore cannot be faulted for calling upon the petitioner to adhere to the procedure set out in the third proviso. I decline to interfere with the impugned refusal check slip. However, relief is granted to the petitioner in the following terms:-

(I) The petitioner is directed to lodge a complaint before the Inspector of Police, Melapalayam Police Station, Tirunelveli complaining of the loss of the original deed. The jurisdictional police shall issue non-traceable certificate after following the usual norms.

(II) The petitioner shall also cause paper publication regarding loss of the previous original deed.



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(III) The petitioner shall re-present the document in question by adhering to the procedure set out in the third proviso. In the document, there shall also be a recital that the previous original deed has not been deposited by way of mortgage.

(IV) Subject to the petitioner fulfilling the requirement, the respondent shall receive the document and register it and release it.”

5.In this case, condition No.1 has already been fulfilled by the petitioner. Subject to fulfillment of other formalities set out above, the document to be re-presented by the petitioner shall be received, registered and released.

6.This writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

01.12.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-
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Madurai.
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Thamaraipatti,
At Chittampatti,
Madurai District.



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G.R.SWAMINATHAN, J.

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