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W.P.(MD)NO.29676 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.12.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.29676 of 2023

Arathi Krishnakumar,
through her Power Agent,
Shafeek.

... Petitioner

Vs.

The Sub Registrar,
Idaikkal Sub Registrar Office,
Idaikkal,
Tenkasi District.

... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the respondent vide RFL/Idaikkal/132/2023 dated 17.11.2023 and quash the same and further directing the respondent to register the sale deed dated 17.11.2023 executed by the petitioner without insisting to produce the previous original document which is relating to the land in survey No.184 admeasuring 10 A 55.8 C out of 31 A 67.5 C situated at Achamputhur Village, Kadayanallur Taluk, Tenkasi District.

For Petitioner : Mr.T.Selvan

For Respondent : Mr.K.Balasubramani,
Special Government Pleader.

* * *



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ORDER

Heard both sides.

2. The property originally belonged to M.K.Krishnakumar, father of the petitioner Arathi Krishnakumar. He passed away. It devolved in three equal shares on his three legal heirs, namely, wife, son and daughter. The petitioner's mother is said to have alienated her share in the property. The petitioner would claim that the parent deed is not with her. Now the petitioner wants to alienate her undivided 1/3rd share in the property through her power agent. The respondent has taken the stand that since the parent deed has not been produced, registration had to be refused.

3.To deal with the situation, the Inspector General of Registration has issued a circular bearing Circular No. 22482/C1/2022 dated 02.02.2023. Clause 7(f) of the said circular reads as follows:-

“7.For registration of Will.

(f) If the property is purchased by the Father/Mother and after his/her intestate demise,



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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 made 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."

The petitioner is permitted to resubmit the document. The authority concerned will conduct enquiry as mentioned in the circular. In my view, when the petitioner only wants to sell her 1/3rd undivided share in the land, there need not be any impediment for registering the document. However, such



registration shall be done after issuing notice to the other two stakeholders, namely, mother and son of the writ petitioner.

4.This writ petition is disposed of accordingly. There shall be no order as to costs.

14.12.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes/ No

PMU

To:

The Sub Registrar,
Idaikkal Sub Registrar Office,
Idaikkal,
Tenkasi District.



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G.R.SWAMINATHAN,J.

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