



W.P.No.2534 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18..04..2024
Coram

THE HON'BLE MR JUSTICE N.SATHISH KUMAR

Writ Petition No.2534 of 2023
and
W.M.P. Nos.2625 and 2626 of 2023

S.Subbulakshmi

..... Petitioner

-Versus-

- 1.The Joint Sub Registrar – I (District Registrar STD),
Tiruppur, Tiruppur Sub Registrar Office,
Tiruppur.
- 2.The District Registrar,
Tiruppur.
- 3.The Inspector General of Registration,
Office of the Inspector General of Registration,
Santhome, Chennai.

..... Respondents

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent ending with proceedings dated 16.12.2022 in RFL/1/No.JOINT Sub Registrar Tiruppur/274/2022 and quash the same and consequently direct the 1st respondent to register and release settlement deed dated 16.12.2022.



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For Petitioner : Ms.M.Nuzhath Khanam
for Mr.N.A.Nassir Hussain
For Respondent (s) : Mr.P.Anandhakumar, GA

ORDER

Although this writ petition has come up for admission, by consent of either party, the writ petition itself is taken up for final disposal.

2. This writ petition has been filed challenging the refusal check slip issued vide proceedings of the 1st respondent dated 16.12.2022 in RFL/1/No.JOINT Sub Registrar Tiruppur/274/2022 and seeking a consequential direction to the 1st respondent to register the settlement deed dated 16.12.2022 which was presented by the petitioner for registration and release the same.

3.The grievance of the petitioner is that when he presented the settlement deed dated 16.12.2022 for registration, the same was refused to be registered by the 1st respondent on the ground that as per the circular issued by the 3rd respondent, original of the title deeds were not produced.

4. Heard both sides.

5. In the case of **Federal Bank v. Sub Registrar and two others** [Judgement dated 08.02.203 in W.P.No.2758 of 2023], this court while



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declaring that first proviso to Rule 55-A invalid and ultra vires, held that the registering authority cannot refuse to register the document placing reliance on the aforesaid proviso. This court has further held that the production of original document is not at all required when the particular document is a registered one. The relevant paragraphs of the said judgement read as under:-

22. Similarly, the second proviso requires the executant to produce a revenue record to show his “right over the subject property” where the property is ancestral in character and there is no original deed available. Even a tax receipt can be produced under this proviso which is opposed to the fundamental principle of law that revenue records are not documents of title [State of A.P. v Star Bone Mill and Fertilizer Company, 2013 9 SCC 319]. Production of revenue documents to verify the source of title only demonstrates complete ignorance of the settled position of law.

23. Similarly, the third proviso also defies logic. If the original is lost, it is not understood as to why a certified copy of that document obtained from the file of the concerned SRO cannot be produced. When the best evidence is not available, the best course is to produce a certified copy which is the next best available alternative. Instead, the third proviso requires the



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executant to obtain a non-traceable certificate and effect paper publication.

24. It is also well settled by the decision of the Supreme Court in *J.K. Industries Ltd. v. Union of India*, (2007) 13 SCC 673 that a subordinate legislation may be struck down as arbitrary or contrary to statute if it fails to take into account vital facts which expressly or by necessary implication are required to be taken into account by the statute or the Constitution. Furthermore, Rule 55-A is a delegated legislation which well the Transfer of Property Act which is the substantive law governing the transfer of immovable properties. Hence, the first proviso is clearly ultra vires and unconstitutional”

Without following the judgement of this court in the case of Federal Bank Case [cited supra], the registering authority has been consistently refusing to register the documents for want of production of the previous original documents relating to the title based on the circular issued by the 3rd respondent which is highly deprecated. The registration shall be done based on the certified copy of the registered deed.

In the result, the writ petition is allowed. The refusal check slip impugned in the writ petition is set aside. The 1st respondent is directed to register the settlement deed dated 16.12.2022 presented by the petitioner based



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on the certified copy of the previous document. No costs. Consequently,

connected WMPs are closed.

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Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
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To

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Tiruppur.
- 2.The District Registrar,
Tiruppur.
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N.SATHISH KUMAR.J.,

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