



W.P.No.3531 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2024

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.3531 of 2024

and

W.M.P.No.3793 of 2024

Ranjith

... Petitioner

versus

1.The Inspector General of Registration,
Santhome High Road, Mylapore,
Chennai – 600 004.

2.The Sub-Registrar,
Gangavalli,
Salem District.

.....Respondents

Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Refusal Check Slip in Refusal No.RFL/Gangavalli/1/2024 dated

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08.01.2024 and to quash the same as illegal, incompetent and ultra vires and consequently, direct the second respondent to register the sale deed dated 27.09.2023 by verifying the certified copy of the Parental Document bearing No.765 of 1982.

For Petitioner : Mr.A.Logesh

For Respondents : Mr.B.Vijay
Additional Government Pleader

ORDER

Mr.B.Vijay, learned Additional Government Pleader accepts notice for the respondents. With the consent of both the parties, this Writ Petition itself is taken up for final disposal.

2. This Writ Petition has been filed to quash the Refusal Check Slip in Refusal No.RFL/Gangavalli/1/2024, dated 08.01.2024 and consequently, direct the second respondent to register the Sale Deed dated 27.09.2023, by verifying the certified copy of the Parental Document bearing No.765 of 1982.

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3. The learned counsel for the petitioner submitted that the petitioner's father is the absolute owner of the subject property in S.No.682/1 measuring an extent of 0.68 cents and S.No.701/4 measuring an extent of 0.63 cents at Gangavalli Village, Salem District and he executed a settlement deed in favour of the petitioner. When the petitioner presented the Settlement Deed before the second respondent/Sub-Registrar for registration on 27.09.2023, the second respondent refused to register the same and passed the impugned refusal check slip and directed the petitioner to produce the original parent documents. He further submitted that the petitioner is not able to produce the original parent documents, but he has produced the certified copy of the documents before the second respondent, but the second respondent has not accepted the same.

4. Heard both sides and perused the materials available on record.

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5. It is seen from the records that though the petitioner has not filed the original parent documents, the second respondent refused to register the said Settlement Deed and directed the petitioner to re-present the document along with original parent document. The petitioner himself admitted that he has produced only certified copy of the parent document, however, he has not stated any reason as to why he has not been in a position to produce the original parent document.

6. In the facts and circumstances, it is useful to extract Rule 55-A(i) of the Registration Rules, which reads as follows:

"Rule 55-A(i):

The registering officer before whom a document relating to immovable property is presented for registration, shall not register the same, unless the presentant produces the previous original deed by which the executant acquired right over the subject property and an Encumbrance Certificate pertaining to the property obtained



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within ten days from the date of presentation:

Provided that in case an encumbrance as to mortgage, orders on Attachment of property, sale agreement or lease agreement exists over the property, the registering officer shall not register such document if the time limit for filing of suit is not lapsed, or No Objection Certificate is not granted by the appropriate authority or raising of the attachment is not done, as the case may be:

[this Proviso (i) has been struck down by this Court in the decision reported in 2023(2) CTC 289 *[Federal Bank Ltd., Vs. Sub Registrar, Office of he Sub Registrar, Pollachi and others]*

Provided further that in case the previous original deed is not available as the property being an ancestral one, the registering officer shall not register such document, unless the presentant produce any revenue record evidencing the executant's right over the subject property such as patta copy issued by Revenue Department or tax receipt:

Provided also that if the previous original deed is lost, the registering officer shall register such document only on production of non-traceable Certificate-issued by the Police department along with the advertisement published in the local Newspaper as to the notice of loss of



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the previous original deed:

Provided also that production of the previous original Deed shall not be necessary where the Government or a Statutory body is the executant of the document or for such class of documents as may be notified by the Inspector General of Registration, from time to time."

7. Even though Proviso (i) to Rule 55-A(i) of the Registration Rules has been struck down by this Court in the decision reported in **2023(2) CTC 289 [Federal Bank Ltd., Vs. Sub Registrar, Office of he Sub Registrar, Pollachi and others]**, the other Proviso II to IV are still existing. If a presentant, who has presented the document for registration, is not able to produce the original document, he has to follow the Provisos II to IV to Rule 55-A(i) of the Registration Rules as the case may be. However, in the present case, the petitioner has not followed and complied with the Proviso III to Rule 55A(i) of the Registration Rules. Therefore, the petitioner is not entitled to get the relief as sought for in this Writ Petition. If the petitioner



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either produced the original parent document or comply with the Provisos II to IV to Rule 55-A(i) of the Registration Rules, as the case may be, and if the document produces by the petitioner is otherwise in order, the second respondent is directed to register the same.

8. With the above direction, this Writ Petition is dismissed. However, liberty is granted to the petitioner to work out his remedy in the manner known to law. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Speaking Order : Yes/No

Neutral Citation Case : Yes/No

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To

- 1.The Inspector General of Registration,
Santhome High Road, Mylapore,
Chennai – 600 004.
- 2.The Sub-Registrar,
Gangavalli,
Salem District.



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