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W.P.No.4648 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2024

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.4648 of 2024

Manoharan

... Petitioner

versus

The Sub Registrar,
O/o.Sub Registrar Office,
Perambalur,
Perambalur District.

.....Respondent

Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Mandamus, directing the respondent to register the sale deed without insisting for the production of the original documents within stipulated time fixed by this Court by considering the representation of the petitioner dated 08.02.2024 in accordance with law.

For Petitioner : Mr.M.Velmurugan

For Respondent : Mr.U.Baranidharan
Additional Government Pleader

ORDER

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WEB COPY Mr.U.Baranidharan, learned Additional Government Pleader accepts notice for the respondent. With the consent of both parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition has been filed seeking for issuance of a writ of mandamus, directing the respondent to consider the representation of the petitioner dated 08.02.2024, in and by which, he sought to register the sale deed without insisting for the production of the original documents.

3.The learned counsel for the petitioner submitted that when the petitioner has presented the sale deed before the respondent/Sub Registrar, Perambalur for registration, the respondent, without registering the same, insisting the petitioner to produce the original sale deed dated 22.10.2012 in Doc.No.6478/2012. Hence, the petitioner has given a representation to the respondent on 08.02.2024, seeking to register the sale deed without insisting on production of the original documents. He further submitted that since the petitioner has lost the original documents, he is not able to produce the



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same, however, the certified copy of the documents, are very much available with him, and further, all the Revenue Records stand in the name of the petitioner.

4. It is seen from the records that the petitioner himself admitted that he has not produced the original parent document at the time of registration and he has produced only certified copy of the parent document. It is mandatory as per Rule 55-A(i) of the Registration Rules that, while registering a document, the Registrar shall scrutinize the original parent documents.

5. 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 within ten days from the date of presentation:



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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 the 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 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."



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6. Even 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 person who presents a 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.

7. However, in the present case, the petitioner has not followed and complied with the Provisos 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 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 that may now be produced by the petitioner, is otherwise in order, the respondent is directed to register the same.



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8. With the above directions, 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.

26.02.2024

Index: Yes/No

Speaking Order : Yes/No

Neutral Citation Case : Yes/No

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To

The Sub Registrar,
O/o.Sub Registrar Office,
Perambalur,
Perambalur District.

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P.VELMURUGAN, J.
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