



W.A.No.1572 of 2

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

W.A.No.1572 of 2024

1.Mahendran

2.Minor Srivani

...Appellants

Vs.

The Sub-Registrar,
Periyanaickenpalayam,
Coimbatore District.

...Respondent

Prayer: Writ Appeal filed under Clause 15 of Letter Patent, against the order dated 12.01.2024 made in W.P.No.719 of 2024.

For Appellants : Mr.L.Mouli

For Respondent : Mr.L.S.M.Hasan Faizal

Additional Government Pleader



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J U D G M E N T

(Judgment of the Court was made by R.SUBRAMANIAN, J.)

Aggrieved by the dismissal of the Writ Petition seeking to quash refusal check slip issued by the respondent on 15.11.2023, refusing registration on the ground that the original of the parent title deed is not produced, the appellants are before us.

2. The facts that led to filing of the Writ Petition are as follows:

The father of the 1st appellant, T.Venkatesan was allotted the subject property in a partition that took place between him and his brothers by way of a registered instrument of partition dated 06.04.1975. The appellants entered into another partition, dividing the subject properties between themselves on 15.11.2023 and presented the said document for registration before the Sub-Registrar, Periyanaickenpalayam. The Sub-Registrar refused registration and the endorsement of refusal dated 15.11.2023 reads as follows:-

"Original document not produced"



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3. It is not in dispute that the original document is the partition deed dated 06.04.1975. Though Rule 55-A requires production of the original of the parent title deed, a circular has been issued by the Inspector General of Registration clarifying the requirement for production of Originals of parent title deeds on 02.02.2023 vide Circular No.22482 / C1 / 2022 and the relevant portion of the said circular reads as follows:-

"4. In respect of Partition, Settlement, Exchange, Release and Will deeds which have not been registered with duplicate wherein the property is allotted to more than one person, it would have been mentioned that the original document is / will be held by whom. If any document has to be registered subsequently with respect to that person whose name has been recited to hold the original document, then it is mandatory for that person to produce the original with respect to his / her share of the property. However the other co-owners / coparceners need not be insisted to produce the original document. If the name of original document holder is not mentioned then the original document which is registered without duplicate need not be insisted for all co-owners / coparceners."



4. A reading of the above circular shows that the Registrar cannot insist upon production of original document when such original document is a deed of partition, settlement, exchange, release and Will deeds which have not been registered with duplicate when they do not contain a recital as to the custody of the original document. The certified copy of the partition deed 06.04.1975 has been placed before us. It is seen therefrom that the said document does not recite anything as to the sharer who is in possession of the original. Therefore, this document will fall within Clause-4 of the circular extracted supra. Hence, Registering Authority was not justified in demanding the original documents from the appellants. We find that the attention of the learned single Judge was drawn to the circular resulting in dismissal of the Writ Petition solely on the ground that requirements under Rule 55-A have not been complied with. We are unable to sustain the order of the Writ Court dismissing the Writ Petition.

5. This Writ Appeal stands **allowed**, the order of the learned single Judge as well as the return memo of the Sub-Registrar will stand set aside. There will be a direction to the respondent to register the partition deed on production of the certified copy of the partition deed dated 06.04.1975. The appellant is given four weeks time to represent the document along with

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certified copy of the partition deed dated 06.04.1975.

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6. We find that the respondent has acted in ignorance of the circular of the Inspector General of Registration dated 02.02.2023 and his ignorance had driven the appellants to this Court. Hence the Government will pay costs of Rs.15,000/- to the appellants within a period of four weeks from today. It will be open to the Government to recover the said sum from the salary of the Sub-Registrar, Periyanaickenpalayam on 15.11.2023 when the return endorsement was made.

(R.S.M., J.) (R.S.V., J.)
27.06.2024

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Internet: Yes

Index: No

Speaking

Neutral Citation : No

R.SUBRAMANIAN, J.



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To:-

The Sub-Registrar,
Periyanaickenpalayam,
Coimbatore District.



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and
R.SAKTHIVEL, J.

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