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W.P. No.19094 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.19094 of 2024

P.G.S.Kannan

... Petitioner

Vs

The Sub Registrar
Dharmapuri (West)
Integrated Complex
Salai Vinayagar Koil Road
Gandhi Nagar, Dharmapuri - 636 701

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the respondent culminating in his impugned refusal Check Slip bearing Refusal Number: RFL/Dharmapuri West/65/2024 dated 10.04.2024 refusing to register the Lease Deed dated 10.04.2024 executed by the petitioner, quash the same, and consequently direct the respondent to forthwith register the said Lease Deed without insisting upon the production of the original of the parent title deeds.



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For Petitioner : Mr.Arun Anbumani
for Mr.S.Elumalai

For Respondent : Mr.L.S.M.Hasan Fizal,
Addl. Govt. Pleader

ORDER

Challenge has been made to the refusal slip issued by the respondent refusing to register the Lease Deed dated 10.04.2024 executed by the petitioner and consequently for a direction to the respondent to forthwith register the said Lease Deed without insisting upon the production of the original parent title deeds.

2. It is the case of the writ petitioner that when he presented a lease deed, the same has been refused to be registered insisting that original documents have not been produced. It is the contention of the learned counsel appearing for the petitioner that the property was originally purchased by the father of the petitioner and he has also executed a Will. When the petitioner presented the lease deed in favour of the Secretary of Vallalar Arivalayam School, the same has not been registered citing that the original title deeds have not been



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produced. It is the further contention of the learned counsel for the petitioner that the original is with Bank of India, Dharmapuri Branch and in this regard, the bank has also issued a certificate that the original land document is still with them.

3. Since the impugned order is clear non-application of mind, no counter is required. The document presented is only a lease deed. The lease is only for a transfer right to enjoy the property and not the transfer of the property. The bank has already issued a certificate that the original sale deed is with them. Therefore, merely to execute the lease deed in favour of the lessee, this court is of the view that the original is not at all required.

4. This Court in the case of ***Federal Bank v Sub Registrar***, reported in **2023 (2) CTC 289** has held that Sub Rule XX of Rule 162 has no statutory backing. The said order has been followed by a Division Bench of this Court in the case of ***M. Ariyanatchi v Inspector General*** made in ***W.A.(MD).No. 856 of 2023, dated 27.06.2023***, wherein, Division Bench of this Court has held that, for instance, the original document is held by one co-owner, the Sub-Registrar can always take an undertaking or a declaration in the form of an affidavit from



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the vendors to the effect that the original document is with the said person and register the document. Hence, the Sub-Registrar cannot refuse to register a document merely because the original parent deed has not been produced.

5. Considering the above settled position of law, the Registrar cannot refuse to register the document merely on the ground of non production of parent document.

6. In this case, the Will is also produced before the Principal District Court, Dharmapuri in S.O.P. No.1 of 2018. In such view of the matter, the impugned order stands quashed. The respondent is directed to register the lease deed presented by the petitioner, within a period of one week from the date of receipt of a copy of this order.

7. With the above direction, the writ petition is disposed of. No costs.

19.07.2024

Index : Yes / No
Neutral Citation : Yes / No
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To

1.The Sub Registrar
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2.The Government Pleader
High Court, Madras



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N.SATHISH KUMAR, J.

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