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WP.No.19056 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **22.07.2024**

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.19056 of 2024

P.R.Sumatra

.. Petitioner

Versus

1. The Sub Registrar, Joint III Salem West,
Puthur Road, Near Mariyamman Temple,
Sivadapuram, Salem – 636 307.
2. The District Registrar, Salem West, Room No.313,
Third Floor, Collectorate Campus, Salem – 636 001.
3. R.Sankar

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus directing the respondents to register the settlement deed dated 22.05.2024 executed by the petitioner to and in favour of his grandson S.Srinivasan, refused by the first respondent by way of refusal check slip bearing reference No.RFL/3/No Joint Registrar, Salem West/11/2024 dated 22.05.2024 and quash the same within such time as this Court may deem fit.

For Petitioner : Mr.E.Hariharan

For Respondents : Mr.B.Vijay
Additional Government Pleader – R1 & R2



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ORDER

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Since no adverse Order is passed against the third respondent, notice to him is dispensed with. With the consent of both sides, this Writ Petition is taken up for final disposal at the admission stage itself.

2. Challenging the impugned refusal slip issued by the first respondent dated 22.05.2024 refusing to register the settlement deed presented by the petitioner for registration, the present Writ Petition has been filed.

3. Heard learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents R1 & R2 and perused the materials available on record.

4. The case of the petitioner is that the subject property was the self acquired property of the father of the petitioner and her parents settled the property in favour of the petitioner by a settlement deeds dated 13.11.1972 and 01.07.1974 and the petitioner is living with her daughter in said property. The third respondent is the second son of the petitioner and he is living separately with his wife and son. The third respondent has taken away the settlement deeds executed in favour of the petitioner and he is continuously giving trouble to the



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petitioner and in this regard the petitioner has also given a complaint to the police. In order retrieve the documents from the third respondent, the petitioner has filed a suit in O.S.No.420 of 2023 on the file of the District Munsif Court, Salem and the third respondent remained exparte in the suit. When the petitioner intended to settle the property in favour of her grandson and executed a settlement deed and presented the same for registration, the same was refused to be registered by the first respondent stating non availability of the original settlement deeds executed in favour of the petitioner. Challenging the same the present Writ Petition.

5. It is the contention of the petitioner that the third respondent has taken away the original documents and in this regard she has also filed a suit for retrieving the documents. Hence, seeks a direction to the first respondent to register the settlement deed presented by the petitioner.

6. It is relevant note that 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



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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 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. In such view of the matter, the impugned refusal slip has to be set aside.

7. Accordingly, this Writ Petition is allowed and the impugned refusal check slip dated 22.05.2024 is quashed and the first respondent is directed to register the settlement deed dated 22.05.2024 presented by the petitioner within a period of fifteen days from the date of receipt of a copy of this order. No costs.

18.07.2024

vrc

Index :Yes/No

Internet :Yes/No

Neutral Citation : Yes/No



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To,

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N. SATHISH KUMAR, J.

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