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WP.No.19520 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.19520 of 2024

N.Prithivi

.. Petitioner

Versus

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

2. The District Registrar,
District Registration Department,
Gobichettipalayam, Erode District – 638 452

3. The Joint Sub Registrar No.II,
O/o.District Registration Department,
Gobichettipalayam, Erode District – 638 452.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the third Respondent Refusal Slip No.RFL/2 No Joint Sub Registrar Gobichettipalayam/25/2024 dated 20.06.2024 and quash the same and consequently direct the third respondent to register the settlement deed filed by the petitioner without insisting for production of original document.



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For Petitioner : Mr.J.Ranjithkumar

For Respondents : Mr.M.Shajahan
Special Government Pleader

ORDER

With the consent of both sides, this Writ Petition is taken up for final disposal at the admission stage itself.

2. This writ petition is filed to quash the impugned refusal check slip in Refusal Slip No.RFL/2 No Joint Sub Registrar Gobichettipalayam/25/2024 dated 20.06.2024 and quash the same and consequently direct the third respondent to register the settlement deed filed by the petitioner without insisting for production of original document.

3. Heard learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

4. The case of the petitioner is that subject property has been settled in favour of the petitioner by his father by way of registered settlement deed



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dated 20.07.2022. When the petitioner presented a settlement deed settling the property in favour of his mother, the same was refused to be registered on the ground that original document has not been produced. Challenging the same, the present Writ Petition has been filed.

5. It is the contention of the petitioner that the settlement deed executed by his father is with his father and hence, he is not able to produce the same before the registering authorities.

6. The learned Special Government Pleader appearing for the respondents would submit that the father has executed a settlement deed only for the purpose of maintaining his father, when the father is about to cancel the document, the son has executed the present document in favour of his mother. Hence, opposed the Writ Petition.

7. A perusal of the settlement executed by the father of the petitioner indicate that the father has executed absolute settlement and there is no right reserved for revocation. Further, there is also no condition for maintenance. Such being the position, when the property has already been



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settled, now it cannot be said that the same has to be revoked. The very fact that the father objecting the settlement in favour of the mother, namely the wife of the original settlor, indicate that there is some family dispute. Therefore, the contention of the writ petitioner that the original settlement deed has been retained by the father is more probable.

8. 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 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.



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9. Accordingly, this Writ Petition is allowed and the impugned refusal slip of the third respondent 20.06.2024 stands quashed and the first respondent is directed to register the settlement deed dated 20.06.2024 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

To,

1. The Inspector General of Registration,
O/o.the Inspector General Registration,
Santhome High Road, Mylapore, Chennai – 600 004.
2. The District Registrar,
District Registration Department,
Gobichettipalayam, Erode District – 638 452
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N. SATHISH KUMAR, J.

VRC

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