



WEB COPY



WP.No.20998 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **30.07.2024**

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.20998 of 2024

Sellamuthu

.. Petitioner

Versus

The Sub Registrar,

Moolanur Sub Registrar Office, Tiruppur District.

.. 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 relating to the impugned refusal check slip dated 05.07.2024 in RFL/Moolanur/14/2024 made by the respondent, quash the same and consequently direct the respondent to register and release the settlement deed dated 05.07.2024 without insisting for original parent document.

For Petitioner : Mr.R.Prabakar

For Respondent : Mr.M.Shajahan
Additional Government Pleader

ORDER

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



WP.No.20998 of 2024

WEB COPY

2. Challenging the impugned refusal slip issued by the respondent dated 05.07.2024 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 respondent and perused the materials available on record.

4. The case of the petitioner is that the subject property has been allotted to the mother of the petitioner vide settlement deed dated 05.09.1942 executed by her father and after the death of the parents of the petitioner, the petitioner and his brothers are having equal share in the property. When the petitioner executed a settlement settling his $\frac{1}{4}$ share in the property to his sons, when he presented the settlement deed for registration, the same was refused to be registered by the respondent citing non availability of the parent document. Challenging the same the present Writ Petition.

5. It is the contention of the petitioner that the original settlement deed executed in favour of the mother of the petitioner is with one of his brother and



WP.No.20998 of 2024

he is not in good terms with the petitioner and hence, the same could not be produced before the registering authorities. Hence, seeks a direction to the respondent to register the settlement deed presented by the petitioner, without insisting on production of the parent document.

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 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 05.07.2024 is quashed and the respondent is directed to register



WP.No.20998 of 2024

the settlement deed dated 05.07.2024 presented by the petitioner within a period of fifteen days from the date of receipt of a copy of this order. No costs.

30.07.2024

vrc

Index :Yes/No

Internet :Yes/No

Neutral Citation : Yes/No

To,

The Sub Registrar,

Moolanur Sub Registrar Office, Tiruppur District.



WEB COPY



WP.No.20998 of 2024

N. SATHISH KUMAR, J.

vrc

W.P.No.20998 of 2024

30.07.2024