



WEB COPY



WP.No.20693 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.20693 of 2024

C.M.Vijayakumari

.. Petitioner

Versus

The Sub Registrar
Periamet Sub Registration Office
EVK Sampath Salai, Chennai

.. Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of refusal check slip Refusal No.RFL/Periamet/56/2024, quash the same and direct respondent to register the release deed filed in RFL No.RFL/Periamet/56/2024 dated 08.07.2024.

For Petitioner : Mr.S.Ravichandran

For Respondent : Mr.B.Vijay
Additional Government Pleader

ORDER

This writ petition is filed to quash the Refusal Check Slip in Refusal Number: RFL/Periamet/56/2024 dated 08.07.2024 and consequently direct the respondent to register the same without insisting for production of original parent document.

2. It is the grievance of the writ petitioner that when the release deed was



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presented for registration, the respondent refused to register the same on the ground that as per the circular of the Inspector General of Registration, the originals were not produced.

3. Heard learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondent and perused the materials available on record. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

4. I have perused entire records. This Court in **Federal Bank Vs. Sub Registrar and two others** in **W.P.No.2758 of 2023 dated 08.02.2023**, has held as follows :-

“22. Similarly, the second proviso requires the executant to produce a revenue record to show his “right over the subject property” where the property is ancestral in character and there is no original deed available. Even a tax receipt can be produced under this proviso which is opposed to the fundamental principle of law that revenue records are not documents of title [State of A.P. v Star Bone Mill and Fertilizer Company, 2013 9 SCC 319]. Production of revenue documents to verify the source of title only demonstrates complete ignorance of the settled position of law.

23. Similarly, the third proviso also defies logic. If the original is lost, it is not understood as to why a certified copy of that document obtained from the file of the concerned SRO cannot be produced. When the best evidence is not available, the best course is to produce a certified copy which is the next best available alternative. Instead, the third proviso requires the executant to obtain a non-traceable certificate and



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effect paper publication.

24. It is also well settled by the decision of the Supreme Court in J.K. Industries Ltd. v. Union of India, (2007) 13 SCC 673 that a subordinate legislation may be struck down as arbitrary or contrary to statute if it fails to take into account vital facts which expressly or by necessary implication are required to be taken into account by the statute or the Constitution. Furthermore, Rule 55-A is a delegated legislation which cannot go beyond the scope of the Parent Act viz., the Registration Act as well the Transfer of Property Act which is the substantive law governing the transfer of immovable properties. Hence, the first proviso is clearly ultra vires and unconstitutional.”

5. Considering the above and also of the fact the circular cannot override the statutory right and substantive provisions of law, the respondent cannot refuse the registration of the document citing non production of original. They can very well verify the certified copies available with them.

6. Such view of the matter, the refusal check slip issued by the respondent is set aside. The respondent is directed to register the release deed dated 08.07.2024 without insisting the production of originals within a period of 15 days from the date of receipt of a copy of this Order.



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N. SATHISH KUMAR, J.

7. With the above directions, this Writ Petition stands allowed. No costs.

26.07.2024

dhk

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

To,

The Sub Registrar
Periamet Sub Registration Office
EVK Sampath Salai, Chennai

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