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W.P.No.22744 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :30.08.2024

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.22744 of 2024

Mrs.L.Shantha

...Petitioner

Vs.

The Sub-Registrar
Uthagamandalam Joint-I
Uthagamandalam
The Nilgiris.

..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, quashing the refusal check slip bearing No. RFL/Uthagamandalm -Joint I/36/2024 dated 27.07.2024 and directing the respondent to register the settlement deed dated 27.06.2024 executed by the Petitioner bearing TP No. TP/185720435/2024 without insisting for production of original document.

For Petitioner : M/s.S.Pooja Shree
for Mr.A.Parthasarathy

For Respondent :Mr.P.Harish
Government Advocate



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ORDER

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Aggrieved by the refusal slip issued by the respondent refusing to register the settlement deed executed by the petitioner in favour of her younger son one Venkatesh Gowda on the ground that the petitioner failed to produce the original title document, she has come before this Court by way of this writ petition.

2. According to the petitioner, the subject property with an extent of 1 acre and 32 cents situated in Old RS.No.125/4, New Survey No.516/2, Ootacamund village, Uthagamandalam Taluk, The Nilgiri district belongs to the petitioner under a settlement deed executed by her mother on 25.08.1988. The petitioner executed a settlement deed in respect of above mentioned property in favour of her younger son namely Venkatesh S Gowda and presented the same for registration. The settlement document was refused registration by the respondent on the ground that petitioner failed to produce her original title documents. Aggrieved by the same, the petitioner is before this Court.



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3. The learned counsel for the petitioner, by taking this Court to the averments found in the affidavit filed in support of this petition, submitted that the original documents were retained by petitioner's elder son and the petitioner was sent out of home by her elder son. According to the petitioner, now she is residing with her younger son. Since the original document is in the custody of petitioner's elder son, she is not in a position to produce the original document before the registering authority. The learned counsel submits that petitioner is ready to submit an affidavit expressing her inability to produce the original documents.

4. The learned Government Advocate appearing for the respondent by relying on Rule 55A of Stamp Registration Act submitted that unless the original title document is produced, the registering authority cannot accept the document for registration.

5. The issue involved in this matter is covered by the Division Bench of



this Court in the case of ***M.Ariyanatchi and other Vs The Inspector General of Registration*** in ***W.A.(MD).No.856 of 2023***. The relevant observation of this

Court reads as follows:-

“13. No doubt, requirement to produce the original document would be a safer method by which the Sub Registrar can ensure that the property belongs to the executant. But, that is not the only method. In the case on hand, it is clearly seen that the earlier document was also registered with the very same Sub Registrar and after computerization and digitization, the document is available online for the Sub Registrar to peruse. He can always take an undertaking or a declaration in the form of a sworn affidavit from the vendors to the effect that the original document is with their siblings and register the document. Conduct of an enquiry of the nature that is recommended under Clause (f), extracted supra, would only lead to confusion. If the other legal heirs want to claim exclusive title, it is always open to them to approach the competent Civil Court and if they are able to establish their exclusive right before the Civil Court, the alienation will be invalid. In such circumstances, when the substantive law takes care of and protects any



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misuse or abuse, we do not think that Rule 55-A of the Registration Rules is the only method by which fraudulent transactions are prevented.

14. In the light of the above, we do not think that insistence on production of original document, in all cases across the Board, could be sustained. Wherever the vendor is a co-owner and it is claimed that the original document is in the hands of the other co-owners, who are reluctant to part with it, the Registrar can always take a declaration in the form of a sworn affidavit from the co-owner, who is the executant and register the document. If the other siblings dispute the rights of the executant, they can also do so before the Civil Court and there is no law that authorizes the Registrar to conduct a trial to decide title to the property in question. What is sought to be done in the garb of an enquiry is exactly that. We are, therefore, convinced that the order of the Writ Court as well as the check slip issued by the Sub Registrar cannot be sustained.

15. The writ appeal is allowed and the order of the Writ Court, dated 24.04.2023, passed in W.P.(MD)



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No.9525 of 2023 is set aside. The writ petition in W.P.(MD) No.9525 of 2023 will stand allowed. The check slip issued by the Sub Registrar is quashed. The Joint Sub-Registrar / second respondent is directed to register the document, after getting a declaration in the form of sworn affidavit from the executants of the document that the original sale deed dated 27.01.2003 executed in favour of Shanmugam is in the hands of the male heirs of Shanmugal Ambalam and on production of the certified copy of the document along with the other documents, namely, Patta, death certificate and legal heirship certificate of Shanmugam Ambalam. The process of registration shall be completed within fifteen days from the date of representation of the document by the appellants. Since we have quashed the rejection of the check slip today, the appellants will have four months time to represent the document for registration from today. No costs.”

6. In view of the law laid down by the Division Bench of this Court in the above mentioned case law, the insistence on production of original title document by the respondent cannot be sustained. Therefore, the impugned check slip is quashed and the writ petition stands allowed by directing the



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respondent to register the document presented for registration by getting an affidavit from the petitioner regarding the fact that the original document is in the custody of her elder son namely Jitendra. The petitioner is directed to file an affidavit to that effect and represent the document along with certified copy of her title deed within a period of two weeks from the date of receipt of copy of this order and the respondent shall register the document if it is otherwise in order.

7. With the above observations, this writ petition stands allowed. No costs.

30.08.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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To
The Sub-Registrar
Uthagamandalam Joint-I
Uthagamandalam
The Nilgiris.

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S.SOUNTHAR, J.
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