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W.P.No.22369 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **02.08.2024**

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

**W.P.No.22369 of 2024
and W.M.P. No.24364 of 2024**

M.Sakthivel

.. Petitioner

Versus

1.The District Registrar,
Salem District.

2.The Sub Registrar,
Mechari, Salem District.

3.The Inspector of Police,
Theevattipatty Police Station,
Salem District.

.. Respondents

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 relating to the impugned proceedings dated 12.07.2024 made in refusal check slip in RFL/Mecheri/11/2024 issued by the 2nd respondent and quash the same as illegal, improper, unreasonable, arbitrary and against the principles of natural justice and thereby, direct the 2nd respondents to register the sale deed dated 12.07.2024 presented by the petitioner.

For Petitioner : Mr.B.Gopalakrishnan



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For Respondents : Mr.Stalin Abhimanyu
Additional Government Pleader
for R1 and R2

Mr.S.Sugendran,
Additional Public Prosecutor for R3

ORDER

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

2. This writ petition is filed to quash the impugned refusal check slip in Refusal Slip No.RFL/Mecheri/11/2024 issued by the 2nd respondent dated 12.07.2024 and quash the same and consequently, direct the 2nd respondent to register the sale deed dated 12.07.2024 presented by the petitioner.

3. Heard learned counsel for the petitioner, the learned Additional Government Pleader appearing for the respondents 1 and 2 and Mr.S.Sugendran, learned Additional Public Prosecutor for 3rd respondent and perused the materials available on record.

4. The case of the petitioner is that the petitioner has purchased the



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property from the vendor viz., Mariyammal, W/o Perumal in survey No.176/18 to an extent of 0.16.1.4 agricultural land and the sale consideration was fixed at Rs.7,10,000/- and paid to the vendor. The petitioner has verified all the revenue records, patta No.1013, A-Register, Adangal and encroachment certificate. The petitioner's vendor had purchased the property from her vendors viz., Perumal and Ramasami through a registered sale deed in Doc.No.92/1978 dated 30.01.1978 on the file of 2nd respondent -Sub-Registrar, Mecheri, Salem District. While the petitioner's vendor has travelled in a bus from Ellakuttai village to Theevattipatty bus stand, the document No.92/1978 dated 30.01.1978 was misplaced and on the same day, the vendor had lodged a complaint before the 3rd respondent police in CSR No.110/2016. Thereafter, the vendor had given a paper publication in Dina Thanthi daily. The 3rd respondent had also issued a non-traceable certificate. The petitioner and his vendor had prepared sale deed for registration and applied for registration through online along with certified copy of parent Document No.92/1978 dated 30.01.1978 and after due verification, they were given temporary registration No.TP/187730914/2024 vide Serial No.50(D650). When the petitioner presented the sale deed for registration before the 2nd respondent, he had



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refused to receive the same without parent document. Challenging the same, the present Writ Petition has been filed.

5. It is the contention of the learned counsel for the petitioner that the parent document had been missing and hence, he is not able to produce the same before the registering authorities and considering the same, non traceable certificate has been issued by the third respondent.

6. The learned Additional Public Prosecutor appearing for the 3rd respondent has submitted that the non traceable certificate produced by the petitioner is a valid and true certificate and only at the time of executing sale deed, the Sub Inspector seal has been affixed and the same has been corrected later.

7. The petitioner has challenged the Refusal Check Slip issued by the respondent. As the order is against the judgment of this Court, no counter is required.



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8. It is relevant to 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, the 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.

9. Accordingly, this Writ Petition is allowed and the impugned refusal slip of the respondent 12.07.2024 stands quashed and the second respondent is directed to register the sale deed dated 12.07.2024 executed in favour of the petitioner by his vendor and presented for registration, within a period of fifteen days from the date of receipt of a copy of this Order. No costs. Consequently, connected miscellaneous petition is closed.



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Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No

To

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N. SATHISH KUMAR, J.

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