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W.P.No.22325 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.22325 of 2024

K.Saravanan

.. Petitioner

Versus

The Sub Registrar,
Thammampatti, No.285, Udayarpalayam,
Thammampatti, Salem District-636 113.

.. 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 and the order of the respondent in Refusal Check Slip in Refusal No.RFL/THAMMAMPATTI/35/2024 dated 15.7.2024 issued to the Petitioner and quash the same as illegal and direct the respondent to register the sale deed dated 12.07.2024 executed by the Petitioner without insisting him to produce the original Settlement Deed dated 19.11.2003 and accept the certified copy of the same, if it is otherwise in order.

For Petitioner : Mr.J.Antony Jesus

For Respondent : Mr.Stalin Abhimanyu
Additional Government Pleader

ORDER



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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 No.RFL/THAMMAMPATTI/35/2024 dated 15.7.2024 issued to the Petitioner as illegal and direct the respondent to register the sale deed dated 12.07.2024 executed by the Petitioner without insisting him to produce the original Settlement Deed dated 19.11.2003 and accept the certified copy of the same, if it is otherwise in order.

3. Heard learned counsel for the petitioner, the learned Additional Government Pleader appearing for the respondent and perused the materials available on record.

4. The case of the petitioner is that petitioner's grandfather viz., Muthu Gounder was the absolute owner of the property to an extent of 0.25.5 ares 4.00 hectares in S.Nos.119/10C, 119/11B and 119/12B in Thammampatti village Gengavalli Taluk, Salem District vide sale deed dated 09.11.1964 registered as Document No.2627/1964 on the file of Sub Registrar, Gengavali. After demise of petitioner's grandfather, the petitioner's father



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viz., Kandasamy and grandmother viz., Palaniammal had executed a Settlement Deed dated 19.11.2003 in favour of the petitioner, registered as document No.1238/2003 on the file of the respondent and has also been granted patta in Patta No.1717. As the said original settlement deed dated 19.11.2003 in favour of the petitioner was missing, he had lodged a complaint before the Thalaivasal Police Station and had obtained Non Traceable Certificate. The petitioner had executed a sale deed dated 12.07.2024 in favour of Krishnan and Selvaraj and presented the same for registration before the respondent on 15.07.2024. The petitioner has also paid stamp duty of Rs.8,99,000/- as per direction of the respondent. Though he had produced the certified copy of the said settlement deed, the respondent refused to register the sale deed executed by the petitioner by issuing impugned refusal check slip. 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 thereby, he had produced the non traceable certificate obtained from Thalaivasal Police Station and the



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certified copy of the said settlement deed for registration.

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6. 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.

7. 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.

8. Accordingly, this Writ Petition is allowed and the impugned refusal



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slip of the respondent 15.07.2024 stands quashed and the respondent is directed to register the sale deed dated 15.07.2024 executed by the petitioner in favour of Krishnan and Selvaraj within a period of fifteen days from the date of receipt of a copy of this Order. No costs.

02.08.2024

raa

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

To

The Sub Registrar,
Thammampatti, No.285, Udayarpalayam,
Thammampatti, Salem District-636 113.



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N. SATHISH KUMAR, J.

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