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W.P. No.20337 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P. No.20337 of 2024

Mrs.S.Stella

... Petitioner

Vs

The Sub-Registrar
Velachery Sub Registrar Office
Velachery
Chennai - 600 042

... 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 of the respondent relating to refusal check slip in Refusal Number RFL/Velachery/47/2024 dated 18.07.2024 pertaining to sale deed dated 28.04.2023 re-submitted to the respondent on 16.07.2024 and quash the same and consequently direct the respondent to receive, accept and register the sale deed dated 28.04.2023 resubmitted on 16.07.2024 and complete the formalities and thereafter release the sale deed document in favour of the petitioner pertaining to the petition property land bearing part of Plot Nos.4 and 5, Easwaran Kovi 2nd Cross Street, Madipakkam, Chennai - 600091 comprised in grama natham Survey No.179 and 179 Part, Old Patta No.195, as per old Patta



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Survey No.453/9, New Patta No.592, as per new Patta Survey No.453/9C, situated at Madipakkam Village, measuring an extent of 135.7 sq.ft.

For Petitioner : Mr.T.Ramachandran

For Respondent : Mr.Stalin Abhimanyu,
Addl. Govt. Pleader

ORDER

By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

2. Challenge has been made to the refusal slip issued by the respondent in RFL/Velachery/47/2024 dated 18.07.2024 refusing to register the sale deed dated 28.04.2023 presented by the petitioner.

3. It is the grievance of the writ petitioner that when the sale deed was presented for registration, the respondent refused to register the same on the ground that the original document, patta, house tax receipt, encumbrance certificate and photocopy of GPS were not produced.



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

5. 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



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executant to obtain a non-traceable certificate and 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.”

6. Considering the above substantive provisions of law, the respondent cannot refuse the registration of the document citing non production of originals and other documents. They can very well verify the certified copies available with them.

7. In Such view of the matter, the refusal check slip issued by the respondent is set aside. The respondent is directed to register the sale deed dated 28.04.2023 presented by the petitioner, without insisting the production of



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originals and other documents within a period of 15 days from the date of receipt of a copy of this Order.

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

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Index : Yes / No

Neutral Citation : Yes / No

Asr

To

1.The Sub-Registrar
Velachery Sub Registrar Office
Velachery
Chennai - 600 042

2.The Government Pleader
High Court, Madras

N.SATHISH KUMAR, J.



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