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W.P.No.22365 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.22365 of 2024
& W.M.P.No.24359 of 2024**

Vittobai

.. Petitioner

Versus

1.The Inspector General of Registration,
Registration Department,
No.100, Santhome High Road,
Santhome, Chennai.

2.The Sub Registrar,
Virugambakkam, Chennai.

.. 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 of the second respondent and to quash the Refusal No.RFL/Virugambakkam/33/2024 dated 18.07.2024 and direct the second respondent to register the Settlement Deed dated 18.07.2024 presented by the petitioner relating to the property 626sq.ft and 619sq.ft. forming part of Plot No.1 being 3300sq. ft. at Kamarajar salai, Venkatesh Nagar, Virugambakkam village comprised in Survey No.16 and Old Survey No.16/12 T.S.No.104/3, Chennai without insisting to produce the original Sale Deed No.3890 dated 15.12.1965 registered in the office of the Sub-Registrar, Saidapet.

For Petitioner : Mr.R.Sreedhar



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For Respondent : Mr.Stalin Abhimanyu
Additional Government Pleader

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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 No.RFL/Virugambakkam/33/2024 dated 18.07.2024 and direct the second respondent to register the Settlement Deed dated 18.07.2024 presented by the petitioner relating to the properties to an extent of 626sq.ft and 619sq.ft. forming part of Plot No.1 being 3300sq.ft. at Kamarajar Salai, Venkatesh Nagar, Virugambakkam village comprised in Survey No.16 and Old Survey No.16/12 T.S.No.104/3, Chennai without insisting to produce the original Sale Deed No.3890 dated 15.12.1965 registered in the office of the Sub-Registrar, Saidapet.

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 she is a senior citizen and she had purchased the properties to an extent of 626sq.ft and 619sq.ft., of land with



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building from one Munusamy and others on 15.12.1965 vide sale deed No.3890/1965 registered with Sub Registrar, Virugambakkam, Chennai, and she had settled the properties to her sons viz., P.Kannan and P.Saravanan through Settlement Deeds No.2160/2015 and 3708/2018 dated 23.03.2015 and 27.06.2018 respectively. Thereafter, the petitioner has filed an application under the Maintenance and Welfare of Parents and Senior Citizen Act & Rules 2007, before the second respondent on 15.02.2021. When the application was pending, the petitioner has filed W.P.No.1797 of 2022 and this Court, by an order dated 16.02.2022, directed the authorities to dispose of her application and an enquiry has been conducted by the Revenue Divisional Officer by providing an opportunity of hearing to her sons and passed an order on 08.03.2022 giving direction to the respondents to cancel the settlement deeds Nos.2160/2015 and 3708/2018 dated 23.03.2015 and 27.06.2018 respectively. Thereafter, again the petitioner has filed W.P.No.26201 of 2022 and this Court by an order dated 12.06.2024 declared that the said settlement deeds were void and in such circumstance, the petitioner becomes the absolute owner. Now the petitioner intends to settle the aforesaid two properties in favour of her grandson Harish Kumar, who is none other than the son of Late Ganesh and had also presented the



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settlement deed dated 18.07.2024 for registration. But the respondent has refused to register the same on the ground that as per G.O.No.438 dated 05.09.2022 sent through IGR Circular No.22482 dated 14.09.2022 original PR document No.3890 of 1965 not presented. As the said original title deed is with her son viz., P.Kannan, challenging the impugned refusal order, the present Writ Petition has been filed.

5. It is the contention of the learned counsel for the petitioner that though the parent document has been with her son viz., P.Kannan, she had obtained an order to cancel the said settlement made and this Court had also declared the settlement deeds Nos.2160/2015 and 3708/2018 dated 23.03.2015 and 27.06.2018 as void, the registering authority is duty bound to register the settlement deed as her right over the property has been substantiated vide order passed by this court in W.P.No.26201 of 2022 dated 12.06.2024.

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



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required.

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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 slip of the respondent 18.07.2024 stands quashed and the second respondent is directed to register the settlement deed dated 18.07.2024 executed by the petitioner in favour of her grandson within a period of fifteen days from the



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date of receipt of a copy of this Order. No costs. Consequently, connected

miscellaneous petition is closed.

02.08.2024

raa

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

To

1.The Inspector General of Registration,
Registration Department,
No.100, Santhome High Road,
Santhome, Chennai.

2.The Sub Registrar,
Virugambakkam, Chennai.



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N. SATHISH KUMAR, J.

raa

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