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W.P.No.22851 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2024

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.22851 of 2024

Meenatchi

... Petitioner

VS.

The Sub Registrar,
Office of Sub Registrar,
Periyamet, Chennai District.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to impugned order of passed by the respondent in Check Slip RFL/Periyamet/57/2024 dated 12.07.2024, thereby refusing to register the document and quash the same as illegal, incompetent to register the settlement deed dated 12.07.2024 presented by petitioner, without insisting the production of parent document.

For Petitioner	: Mr.S.Arivazhagan
For Respondent	: Mr.P.Harish
	Government Advocate



W.P.No.22851 of 2024

ORDER

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Aggrieved by the impugned refusal check slip refusing to register settlement deed presented for registration on the ground that the petitioner failed to produce his original title document, the petitioner is before this Court.

2. The petitioner purchased the house property in old Door No.13A, New No.31 in S.No.1551 and old S.No.155, Old Slaughter House Road, Thattankulam, Soolai, Chennai – 600 112 under registered sale deed dated 21.08.1985. The petitioner due to love and affection executed a settlement deed in favour of his son and two daughters on 12.07.2024 and presented the same for registration before the respondent.

3. The respondent by impugned refusal slip refused to register the document on the ground that the petitioner failed to produce title document namely the sale deed dated 21.08.1985.



W.P.No.22851 of 2024

WEB COPY

4. The learned counsel appearing for the petitioner by taking this Court to the averments in the additional affidavit filed on 30.08.2024 submitted that the original document was misplaced by her and inspite of best efforts, she could not trace out the document. He also submitted that the petitioner is ready to file an affidavit before the registering authority mentioning the misplacement of the parent documents.

5. The learned Government Advocate appearing for the respondent would submit that failure to produce the original cannot be a ground to refuse the registration and the same is violative of the right of the petitioner under Article 300A of Constitution of India. The learned Government Advocate by relying Rule 55A of rules framed under Registration Act, submits that unless the original title deed is produced by the Presentant, the registering authority cannot entertain the documents for registration. The issue involved in this writ petition regarding production of the original documents at the time of registration was considered by this Court in *Venugopal Vs. The Inspector General of Registration in*



W.P.No.22270 of 2024. The relevant observation of this Court reads as

follows:

15. Therefore, failure to produce original title document is not an absolute bar for registration of the document presented for registration. Proviso 3 to Rule 55-A(i) only mandates that the presentant shall produce Non-Traceable Certificate from Police Department along with advertisement published in the local Newspaper as to the notice of loss of the previous original deed. In the affidavit filed in support of the writ petition, the petitioner asserted that he approached the Police Officials for tracing the original document but in vain. It is not clear whether the petitioner gave any police complaint. In fact, the petitioner has not produced any copy of police complaint in the typed-set of papers.

16. The Proviso 3 to Rule 55-A does not say Non-Traceable Certificate shall be issued by police within a time frame. We cannot expect the petitioner, who presented the document for registration to wait endlessly expecting Non-Traceable Certificate. Further, Section 23 of Registration Act compels presentant to present the document for registration within four months. Hence, presentant cannot wait indefinitely for non-traceable certificate by Police. The Proviso 3 to Rule 55-A(i) does not mention any time limit for issue of non-



*traceable certificate. Hence, if Police Authorities failed to issue certificate within time to enable presentant to comply with Section 23 of Registration Act, there is a danger of document being refused as presented out of time. Therefore, following the order passed by the Division Bench of this Court in **M.Ariyanatchi** case, this Court directs the 2nd respondent to register the document on petitioner fulfilling certain conditions, which can be treated as substantial compliance of Proviso 3 to Rule 55-A.*

17. As mentioned earlier, failure to produce original title document is not a ground to refuse registration provided petitioner satisfy third proviso to Rule 55-A(i). Therefore, the impugned Refusal Check Slip issued by the 2nd respondent in RFL / CHENNIMALAI / 25 / 2024, dated 30.04.2024 is quashed and the petitioner is directed to represent the document before the 2nd respondent within a period of two weeks from today, along with an affidavit mentioning the fact of loss of original title document and untraceability of the same. The petitioner shall also enclose newspaper advertisement issued by him in leading Tamil newspapers having wide circulation in Erode District. The Newspaper advertisement shall disclose loss of original title deed and intention of the Seller to convey the property. On fulfilment of these two conditions, the 2nd respondent is directed to register



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W.P.No.22851 of 2024

the same.

6. In view of the settled position, the respondent is not justified in rejecting the document on the ground that the petitioner failed to produce original document when he is ready to file an affidavit regarding the misplacement of the document. Therefore, the impugned refusal check slip is quashed and the writ petition stands allowed. The petitioner is directed to represent the document before the respondent within a period of two weeks from the date of receipt of a copy of this order along with affidavit mentioning the misplacement of the relevant title document and certified copy of the sale deed dated 12.07.2024. The petitioner shall also file newspaper advertisement as indicated in Proviso 3 to Rule 55-A. If the document is represented within time as indicated above, the respondent shall register the same, if it is otherwise in order.

7. Accordingly, this writ petition is allowed. No costs.

03.09.2024

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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W.P.No.22851 of 2024

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To
The Sub Registrar,
Office of Sub Registrar,
Periyamet, Chennai District.



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W.P.No.22851 of 2024

S.SOUNTHAR, J.

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W.P.No.22851 of 2024

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