



W.P.No.23535 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2024

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.23535 of 2024

V.Manimaran

... Petitioner

vs.

The Sub Registrar,
Office of the Sub Registrar Office,
Jalagandapuram,
Salem District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, calling for the records relating to the impugned Refusal Check Slip in No.RFL/Jalagandapuram/5/2024 dated 18.07.2024 issued by the respondent and quash the same and consequently direct the respondent to register the sale deed dated 18.07.2024 presented by the petitioner.

For Petitioner : L.Ramanathan

For Respondents : Mr.P.Harish
Government Advocate



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ORDER

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Aggrieved by the order of refusal to register the sale deed presented for registration, the petitioner is before this Court.

2. According to the petitioner, the property in S.No.34/4C situated at Soorappalli Village, Jalagandapuram Taluk, Salem District, to an extent of 0.22.5 hectares with patta No.195 belongs to one Mohan Kumar. The petitioner agreed to purchase the said property from Mohan Kumar for sale consideration of Rs.2,00,000/- and the sale deed was also executed in favour of the petitioner on 18.07.2024. When the same was presented for registration before the respondent, he refused to register the same on the ground that sale deed in favour of the petitioner's vendor viz., Mohan Kumar was not produced. Aggrieved by the same, the petitioner is before this Court.

3. The learned counsel appearing for the petitioner would submit that at the time of negotiation, the petitioner's vendor Mohan Kumar misplaced the sale deed and inspite of his best efforts he could not find out



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the same. The petitioner also undertakes to file an affidavit of his vendor, regarding the missing of the parent document.

4. The learned Government Advocate appearing for the respondent by relying on Rule 55A of Rules framed under Registration Act submitted that unless the petitioner produces the certificate from the Police Department regarding the Non-traceability of the parent document and newspaper publication regarding the missing of the document, the respondent cannot register the document.

5. The issue involved in this matter was already decided by this Court 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.*



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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 the same.

6. In view of the settled position, this Court is inclined to set aside the impugned refusal slip issued by the respondent and the petitioner is directed to present the document for registration along with the affidavit of his vendor mentioning the misplacement of the document. The petitioner



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shall also file newspaper publication regarding the missing of the document and the newspaper publication should reflect the intention of the vendor to sell the property of the petitioner. If these conditions are satisfied, the respondent is directed to register the document presented for registration, if it is otherwise in order.

7. Accordingly, this writ petition is disposed of . No costs.

23.08.2024

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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To
The Sub Registrar,
Office of the Sub Registrar Office,
Jalagandapuram,
Salem District.



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S.SOUNTHAR, J.

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