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W.P. No. 23627 of 2024.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.09.2024

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P. No.23627 of 2024

M.Madhan Kumar

..Petitioner

Vs.

1. The District Registrar
Krishnagiri Taluk
Krishnagiri District.

2.The Joint Registrar
Krishnagiri NO.II
Krishnagiri District

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings dated 25.07.2024 made in refusal check slip in RFL/NO. 2. Joint Sub-Registrar Krishnagiri/77/2024 issued by the 2nd respondent quash the same as illegal, improper, unreasonable arbitrary and against the principles of natural justice and thereby direct the 2nd respondent to register the sale deed dated 24.07.2024(TP.No. 137127686/2022) presented by the petitioner.

For Petitioner : Mr. R.Sundarapandiyan



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For Respondent : Mr.P.Harish
Government Advocate

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ORDER

Aggrieved by the impugned refusal check slip issued by the 2nd respondent refusing to register the sale deed presented for registration, the petitioner has come before this Court by way of writ petition.

2. It is the case of the petitioner that one Beeran S/o.Mallan was the owner of the property in Survey No.605/3 with an extent of 17 cents and Survey No.606/1B with an extent of 38 cents with 1/4th share in the Well. He purchased the said property under a registered sale deed dated 01.06.1983. The petitioner's vendor one Beeran executed a sale deed in favour of the petitioner on 24.07.2024 and the same was presented for registration before the 2nd respondent. The 2nd respondent refused to register the sale deed on the ground that the petitioner's vendor failed to produce the original sale deed in his favour or the Non-Traceable Certificate issued by the police. Aggrieved by the same, the petitioner is before this Court.



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4. The learned counsel for the petitioner submits that petitioner's vendor purchased the property on 01.06.1983 and the original sale deed in his favour was misplaced by him and hence, he preferred a complaint on 23.11.2022 before the Krishnagiri Police Station in complaint ID No.CRB22208543. The petitioner's vendor also issued newspaper advertisement regarding missing of the document. The learned counsel submits that though police complaint was lodged by petitioner's vendor on 23.11.2022, till date no non-traceable certificate has been issued by the police. The learned counsel further submits that failure to produce the original sale deed is not a ground to reject the document presented for registration.

5. The learned Government Advocate, who is taking notice for the respondents 1 and 2, by relying on Rule 55-A framed under Registration Act, submitted that unless the petitioner's vendor produces the original sale deed in his favour, the document cannot be considered for registration.



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6. The issue involved in this writ petition regarding the failure to produce the original title documents at the time of registration was covered by the decision of this Court in the case of ***Venugopal Vs The Inspector General of Registration in W.P.No.22270 of 2024***. The relevant observations of this Court reads as follows:-

“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



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*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



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fulfilment of these two conditions, the 2nd respondent is directed to register the same.

18. Therefore, the Writ Petition stands allowed with the above directions. No costs.”

7. In view of the settled position, the failure to produce the original title document is not a ground to reject the registration of the sale deed presented for registration. The impugned order passed by the 2nd respondent is quashed and the writ petition stands allowed. The petitioner is directed to represent the document before the 2nd respondent along with the affidavit of his vendor regarding misplacement of the original document and the newspaper advertisement as indicated above within a period of two weeks from the date of receipt of copy of this order. If the document is represented along with the affidavit and newspaper advertisement, the respondent shall register the same if it is otherwise in order.

8. With these observations, the writ petition stands allowed. No costs

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Index : Yes/No
Neutral Citation : Yes/No
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To

1. The District Registrar
Krishnagiri Taluk
Krishnagiri District.
2. The Joint Registrar
Krishnagiri NO.II
Krishnagiri District



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S.SOUNTHAR, J.

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