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W.P.No.25256 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2024

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.25256 of 2024

P.Thangavel

... Petitioner

VS.

The Sub Registrar,
Karimangalam Sub-Registrar Office,
Dharmapuri.

... 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 of the respondent pertaining to the Refusal Check Slip in Refusal number RFL/KARIMANGALAM/184/2024 dated 20.08.2024 and quash the same as illegal and unsustainable and consequently, direct the respondent to admit and register the settlement deed dated 20.08.2024 executed by the petitioner in favour of her daughter named V.Ananthi with respect to the properties outlined in the Doc. No. 123 of 1989 on the file of SRO, Karimangalam without insisting production of original title deed.

For Petitioner : Mr.M.Ajithkumar

For Respondent : Mr.P.Harish
Government Advocate

ORDER



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Aggrieved by the impugned Refusal Check Slip in Refusal Number RFL/KARIMANGALAM/184/2024 dated 20.08.2024 issued by the respondent refusing to register the Settlement Deed dated 20.08.2024 presented for registration on the ground that original parent title document was not produced, the petitioner has come by way of this writ petition.

2. According to the petitioner, he purchased the subject property under a registered Sale Deed dated 14.03.1989 registered as Document No.123/1989 on the file of the Sub-Registrar Office, Karimangalam and he executed a Settlement Deed in favour of his daughter V.Anandhi on 20.08.2024 and presented the same for registration before the respondent. The registration was refused by the respondent on the ground that petitioner failed to produce the original Sale Deed in his favour. Aggrieved by the same, the petitioner is before this Court.

3. The learned counsel appearing for the petitioner submitted that petitioner misplaced the original title deed and filed an affidavit to that effect along with the document presented for registration. It is also stated that the petitioner issued a newspaper advertisement regarding missing of the



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document and the same was also presented along with the document presented for registration. However, the respondent refused registration on the ground that the petitioner failed to produce the parent original title document in his favour.

4. The learned counsel appearing for the petitioner further submitted that production of original document is not absolutely necessary if there is a substantial compliance of Rule 55-A(i) Proviso III of the rules framed under Registration Act, 1908. The learned counsel appearing for the petitioner submitted that if Rule 55-A(i) Proviso III is substantially complied, there may not any impediment for the respondent to register the document. In this regard, he relied on the judgment of this Court in ***Venugopal vs. Inspector General of Registration*** (Order made in W.P.No.22270 of 2024 dated 14.08.2024).

5. Mr.P.Harish, learned Government Advocate, who is taking notice for the respondent by relying on Rule 55-A Proviso III submitted that unless petitioner produced the non-traceable certificate from the Police Department as required by the rules, the request of the petitioner for registration cannot



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be considered.

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6. The issue involved in this writ petition was already decided by this Court in the above mentioned case law and the relevant observation 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 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*



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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.

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

7. In view of the said position, the petitioner substantially complied with the Rule 55-A Proviso III by producing affidavit and newspaper advertisement. Therefore, there is no impediment for the respondent to consider the document for registration and the impugned order



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passed by the respondent in Refusal Check Slip No.

RFL/KARIMANGALAM/184/2024, dated 20.08.2024 is liable to be

quashed and accordingly, the same is quashed.

8. In view of the above, the petitioner is directed to represent the document along with affidavit and newspaper advertisement as indicated above within a period of two weeks from the date of receipt of a copy of this order. The 2nd respondent is directed to register the same, if it is otherwise in order.

9. With the above directions, the Writ Petition stands allowed. No costs.

29.08.2024

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

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The Sub Registrar,
Karimangalam Sub-Registrar Office,
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S.SOUNTHAR, J.

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