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W.P.No.26384 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2024

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.26384 of 2024

Rajammal

...Petitioner

Vs.

The Sub-Registrar
Sub-Registrar Office
Pennagaram
Dharmapuri.

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondent herein pertaining to his proceeding in RFL/Pennagaram/118/2024 dated 19.08.2024 and quash the release deed and return the same to the petitioner.

For Petitioner : Mr.M.Selvam

For Respondent : Mr.T.Chezhiyan
Additional Government Pleader



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ORDER

Aggrieved by the impugned refusal check slip issued by the respondent, refusing to register the gift settlement deed submitted by the petitioner, the petitioner has come before this Court by way of Writ Petition.

2. The property situated in S.No.375/8 with an extent of 8 ares in Parvathanahalli Village, Pennagaram Taluk, Dharmapuri District, belongs to the petitioner under a Will executed by her husband Gopal dated 18.04.2016. The petitioner executed a gift settlement deed in respect of the above property in favour of her son Krishnan. When the same was presented for the registration before the respondent, the registration was refused mainly on the ground that the petitioner failed to produce the original title documents.

3. The learned counsel for the petitioner by pointing out the averments in the affidavit, vehemently contended that the original title documents of the petitioner was misplaced by her and hence, she is unable to present the original Will before the respondent. It is also submitted that the petitioner has given a police complaint regarding the misplacement of original document and a CSR has been received by the petitioner. The petitioner has



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also issued a paper publication in Tamil daily Makkal Kural dated 14.08.2024 regarding misplacing of the document.

4. Mr.T.Chezhiyan, learned Additional Government Pleader, who is taking notice for the respondent, by relying on Rule 55-A of Registration Rules, submitted that the respondent cannot entertain the registration, unless the original title documents are produced.

5. 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*** reported in ***2024 SC online Mad 4128***. 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



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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



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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.”

6. In view of the settled position, the non-production of the original title document is not a ground to refuse to registration of the document and the impugned refusal check slip issued by the respondent is quashed. The petitioner is directed to represent the document within a period of two weeks from the date of receipt of copy of this order along with her affidavit mentioning the misplacement of the document and the newspaper publication regarding the missing of the document. The respondent is directed to register the same, if it is otherwise in order.



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7. With the above directions, this Writ Petition is disposed of. No costs.

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Index : Yes/No
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dna

To

The Sub-Registrar
Sub-Registrar Office
Pennagaram
Dharmapuri.



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S.SOUNTHAR, J.
dna

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