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W.P.No.29349 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2024

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.29349 of 2024

S.Sathiyathan

...Petitioner

Vs.

1.The Inspector General of Registration,
No.100, Santhome High Road,
Santhome, Chennai 600028.

2.The Joint Sub Registrar II,
Kancheepuram,
Kancheepuram District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent in check slip “PR Not” in Temporary No.TP/119564479/2022 dated 10.05.2022 and to quash the same as illegal and consequently directing the second respondent to



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register and release the settlement deed dated 09.05.2022 forthwith for the properties subject to document Nos.1649/1986, 761/1988, 1920/1992, 2847/1996, 648/2005 and 7239/2008 to and in favour of his son S.Vedapriyan.

For Petitioner : Mr.T.S.N.Prabhakaran

For Respondents : Mr.M.Shahjahan for R1 & R2
Special Government Pleader

ORDER

Aggrieved by the order passed by the second respondent refusing to register the settlement deed presented for registration on the ground that the petitioner failed to produce the original title documents, the petitioner has come before this Court.

2. It is the case of the petitioner that the property measuring an extent of 0.24 cents situated in S.No.85/6, originally belonged to him. On 09.05.2022, he executed a settlement deed in respect of the said property in favour of his son Vedapriyan. The second respondent refused to register the same on the ground that he had not produced the original title deeds. Hence, the petitioner is before this Court.



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3. The learned counsel for the petitioner submitted that failing to produce the original document is not a ground for rejection of the document presented for registration. The petitioner is unable to produce the original documents as they were already handed over to the purchaser of a portion of the property.

4. The learned Special Government Pleader, who takes notice for the respondents 1 & 2, by relying on Rule 55-A framed under Registration Act, submitted that unless the original title documents are produced, the respondent cannot register the documents.

5. The question relating to non production of the original title documents was already considered by the Division Bench of this Court, in the case of *M.Ariyanatchi and other Vs The Inspector General of Registration* in *W.A.(MD).No.856 of 2023*. The relevant observation of the judgment of Division Bench of this Court reads as follows:-



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“13. No doubt, requirement to produce the original document would be a safer method by which the Sub Registrar can ensure that the property belongs to the executant. But, that is not the only method. In the case on hand, it is clearly seen that the earlier document was also registered with the very same Sub Registrar and after computerization and digitization, the document is available online for the Sub Registrar to peruse. He can always take an undertaking or a declaration in the form of a sworn affidavit from the vendors to the effect that the original document is with their siblings and register the document. Conduct of an enquiry of the nature that is recommended under Clause (f), extracted supra, would only lead to confusion. If the other legal heirs want to claim exclusive title, it is always open to them to approach the competent Civil Court and if they are able to establish their exclusive right before the Civil Court, the alienation will be invalid. In such circumstances, when the substantive law takes care of and protects any misuse or abuse, we do not think that Rule 55-A of the Registration Rules is the only method by which fraudulent transactions are prevented.

14. In the light of the above, we do not think that insistence on production of original document, in



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all cases across the Board, could be sustained. Wherever the vendor is a co-owner and it is claimed that the original document is in the hands of the other co-owners, who are reluctant to part with it, the Registrar can always take a declaration in the form of a sworn affidavit from the co-owner, who is the executant and register the document. If the other siblings dispute the rights of the executant, they can also do so before the Civil Court and there is no law that authorizes the Registrar to conduct a trial to decide title to the property in question. What is sought to be done in the garb of an enquiry is exactly that. We are, therefore, convinced that the order of the Writ Court as well as the check slip issued by the Sub Registrar cannot be sustained.

15. The writ appeal is allowed and the order of the Writ Court, dated 24.04.2023, passed in W.P.(MD) No.9525 of 2023 is set aside. The writ petition in W.P.(MD) No.9525 of 2023 will stand allowed. The check slip issued by the Sub Registrar is quashed. The Joint Sub-Registrar / second respondent is directed to register the document, after getting a declaration in the form of sworn affidavit from the executants of the document that the original sale deed dated



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27.01.2003 executed in favour of Shanmugam is in the hands of the male heirs of Shanmugal Ambalam and on production of the certified copy of the document along with the other documents, namely, Patta, death certificate and legal heirship certificate of Shanmugam Ambalam. The process of registration shall be completed within fifteen days from the date of representation of the document by the appellants. Since we have quashed the rejection of the check slip today, the appellants will have four months time to represent the document for registration from today. No costs.”

6. In view of the settled position, even if the petitioner fails to produce the original documents for registration, the same cannot be rejected. Accordingly, the impugned order passed by the second respondent is quashed and the Writ Petition stands allowed. The petitioner is directed to represent the document before the second respondent within a period of two weeks from the date of receipt of copy of this order along with the affidavit indicating reasons for his failure to produce title documents and the second respondent is directed to register the documents, if it is otherwise in order.



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7. With these observations, this writ petition stands allowed. No costs.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
dna

To

1.The Inspector General of Registration,
No.100, Santhome High Road,
Santhome, Chennai 600028.

2.The Joint Sub Registrar II,
Kancheepuram,
Kancheepuram District.



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S.SOUNTHAR, J.
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