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W.P No.27006 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2024

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.27006 of 2024

Mohamed Younus

..Petitioner

Vs.

1.The Inspector General of Registration
Tamil Nadu
Office of Inspector General of Registration
Foreshore Estate Chennai.

2.The District Registrar (Administration)
Office of the District Registrar
South Chennai, Registration District
Nandanam, Chennai 600 035.

3.The Sub-Registrar
Velachery
Office of Sub-Registrar
Velachery Chennai.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorified Mandamus, to call for the records on the file of the second respondent dated 13.12.2023 in Na.Ka.No.20567/A1/2023,



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confirming the order of the refusal under check slip in dated 22.11.2023 on the file of the third respondent, quash the same and consequently direct the third respondent to receive the sale deed submitted in TP/165368660/2023 dated 22.11.2023 and register the same.

For Petitioner : Mr.M.L.Ramesh

For Respondents : Mr.M.Shahjahan for R1 to R3
Special Government Pleader

ORDER

Aggrieved by the order passed by the third respondent refusing to register the sale deed presented for registration on the ground that the petitioner failed to produce the original parent documents, he filed an appeal before the second respondent. The Appellate Authority also confirmed the order passed by the third respondent. Aggrieved by the same, the petitioner is before this Court.

2. It is the case of the petitioner that the property measuring an extent of 5600 sq.ft., situated in Plot Nos.188 & 189 in Sri Balaji Nagar in



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S.No.134/3, New S.No.134/41 at Solinganallur Taluk, Kancheepuram District, originally belonged to one Parthasarathy. He sold the said property to one Chellammal on 20.05.1964 and she executed a settlement deed in favour of her daughter C.Ranjitham vide settlement deed dated 30.07.2020. The petitioner purchased the above property from Ranjitham. Subsequently, the petitioner sold a half share of the property with an extent of 2800 sq.ft., in Plot No.188 to Swaminathan under the sale deed dated 15.07.2022. At the time of sale, the parent documents were handed over to the purchaser through power agent of the petitioner. Therefore, according to the petitioner, the parent documents of the petitioner are not with him.

3. Subsequently, Plot No.189 was subdivided into Plot No.189/A and 189B. Plot No.189/A with an extent of 1400 sq.ft., was sold to one Chandrasekaran and his wife Jesitha. Now, the petitioner wants to sell the remaining 1400 sq.ft in Plot No.189/B in favour of N.Mohammed Harif and executed a sale deed dated 22.11.2023 and the same was presented for registration. The third respondent rejected registration on the ground that the petitioner failed to produce the parent documents. Aggrieved by the same, the petitioner filed an appeal before the second respondent and appeal was



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disposed of by directing the petitioner to produce the parent documents before the third respondent. The order passed by the first respondent is before this Court.

4. 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 parent documents as they were already handed over to the purchaser of the portion of the property.

5. 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.

6. The question relating to non production of the original title documents was already considered by the Division Bench of this Court, in the



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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:-

“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



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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 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



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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 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.”

7. 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 first respondent confirming the refusal check slip issued by the third respondent is quashed and the Writ Petition stands allowed. The petitioner is directed to represent the document before the third respondent within a period of two weeks from the date of



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receipt of copy of this order along with the affidavit and other documents as indicated in *Ariyanatchi* case cited supra and the respondent shall register the same if it is otherwise in order.

8. 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
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S.SOUNTHAR, J.

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