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W.P No.27040 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 19.09.2024**

**CORAM**

**THE HONOURABLE MR. JUSTICE S.SOUNTHAR**

**W.P No.27040 of 2024**

J.J.Ayshwarya

..Petitioner

Vs.

1. The Inspector General of Registration,  
Santhome High Road,  
Mylapore,  
Chennai 600 004.

2. The Sub Registrar,  
Joint II, Saidapet, Chennai 600015  
@ Nandanam, Chennai 600035.

...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 of the Check Slip Refusal No.RFL/Chennai South Joint II/9/2024 dated 13.08.2024 issued by 2<sup>nd</sup> respondent and quash the same and consequently direct the 2<sup>nd</sup> respondent to register the settlement deed dated 13.08.2024 presented by the



W.P No.27040 of 2024

petitioner in favour of her mother Janci Rani wife of Jayakumar for registration without insisting upon the production of the original parent document.

For Petitioner : Mr.A.Suresh Sakthi Murugan  
For Respondents : Mr.P.Harish for R1 & R2  
Government Advocate

### **ORDER**

Aggrieved by the impugned refusal check slip issued by the second respondent refusing to register the deed of settlement presented for registration on the ground that the petitioner failed to produce the original title documents, the petitioner has come by way of this Writ Petition.

2. The petitioner claims ownership over the house property situated in S.No.58/3A1A1B, S.No.58/25, Maanthi Naicker Street/Thootam, Ramapuram Village, Maduravayal Taluk, Chennai District under the sale deed registered as Doc.No.1540/2022 on the file of the second respondent. The petitioner executed a settlement deed in favour of her mother on 13.08.2024



W.P No.27040 of 2024

and presented the same for registration. The second respondent refused to register the document on the ground that the petitioner failed to produce the original sale deed in favour of her father. Aggrieved by the same, the petitioner is before this Court.

3. The learned counsel for the petitioner by taking this Court to the averments made in the affidavit submitted that the original sale deed in favour of the petitioner was taken away by his estranged husband Gowsalya and therefore, the petitioner is not in a position to produce the original documents before the second respondent. The learned counsel for the petitioner further submitted that failure to produce the original title document is not a ground for rejection of the document presented for registration.

4. The learned Government Advocate, who takes notice for the respondents 1 & 2, by relying on Rule 55-A framed under Registration Act, submitted that unless the original documents are produced, the same cannot be considered for registration by the respondents.



W.P No.27040 of 2024

5. The question regarding the 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:-

*“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,*



W.P No.27040 of 2024

*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 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 No.27040 of 2024

*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 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 title documents before registering authority, the document presented for registration cannot be rejected. It is asserted by the petitioner that the document was taken away from her by her estranged husband. In such circumstances, refusing to register the document on the ground that the



W.P No.27040 of 2024

petitioner failed to produce the original document cannot be accepted.

Accordingly, the impugned refusal check slip 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 her affidavit mentioning the reason for her failure to produce the original document. If the document is represented along with affidavit as indicated above, the second respondent shall register the same, if it is otherwise in order.

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

**19.09.2024**

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



W.P No.27040 of 2024

**To**  
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W.P No.27040 of 2024

**S.SOUNTHAR, J.**

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**W.P No.27040 of 2024**

**19.09.2024**