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W.P.No.30065 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2024

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.30065 of 2024

R.Bagyam

... Petitioner

VS.

The Joint Registrar No.1,
Sub Registrar Office,
Erode.

... 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 pertaining to the Refusal Check Slip in refusal number RFL/JOINT REGISTRAR ERODE No.1/55/2024 dated 21.08.2024 and to quash the same as illegal, incompetent and ultra vires and consequently direct the respondent to register the Gift Settlement Deed dated 21.08.2024 executed by the petitioner and without insisting the original document.

For Petitioner : Mr.M.Guruprasad

For Respondent : Mr.T.Chezhiyan
Additional Government Pleader

ORDER



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WEB COPY Aggrieved by the impugned Refusal Check Slip in RFL/JOINT REGISTRAR ERODE No.1/55/2024, dated 21.08.2024 issued by the respondent refusing to register the Settlement Deed dated 21.08.2024 presented for registration, the petitioner has come before this Court.

2. It is the case of the petitioner that she purchased the subject property from one C.Ragupahty and his legal heirs under a registered Sale Deed dated 24.06.1993 bearing Document No.2289 of 1993. Now, the petitioner executed a Settlement Deed in favour of her son-R.Balakrishnan on 21.08.2024 and presented the same for registration before the respondent. The respondent refused registration on the ground that the petitioner failed to produce the original title document dated 24.06.1993. Aggrieved by the same, the petitioner has come before this Court.

3. The learned counsel appearing for the petitioner would submit that the original title document of the petitioner was misplaced and hence, she is unable to produce the original title document before the respondent. However, she expressed her willingness to produce the certified copy of the



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original title document dated 24.06.1993 before the respondent with an affidavit explaining the reason for her failure to produce the original title document at the time of registration.

4. Mr.T.Chezhiyan, learned Additional Government Pleader appearing for the respondent, by relying on Rule 55-A of the Registration Rules, submits that unless original parent title document is produced by the petitioner, the Registering Authority cannot entertain the document presented for registration.

5. The issue involved in this writ petition regarding failure of the presentant to produce the original title document was considered by this Court in ***Venugopal vs. Inspector General of Registration*** (Order made in W.P.No.22270 of 2024 dated 14.08.2024). The relevant observation in the said case law 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



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*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 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



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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.”

6. The Division Bench of this Court in ***P.Pappu vs. The Sub Registrar*** (Judgment made in W.A.No.1160 of 2024, dated 27.09.2024) also held that failure to produce the original title document is not a ground to refuse registration of the subsequent document.

7. In view of the law laid down in the above mentioned case laws, the impugned order cannot be allowed to stand and accordingly, the impugned Refusal Check Slip in RFL/JOINT REGISTRAR ERODE No.1/55/2024, dated 21.08.2024 issued by the respondent is quashed.

8. The petitioner is directed to represent the document before the



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respondent for registration along with affidavit mentioning the misplacement of the original title document and certified copy of the Sale Deed in favour of the petitioner, within a period of two weeks from the date of receipt of copy of this order. The respondent shall consider the same for registration, if it is otherwise in order.

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

21.10.2024

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

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The Joint Registrar No.1,
Sub Registrar Office,
Erode.



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S.SOUNTHAR, J.

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