



WEB COPY



W.P. No.29950 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2024

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P. No.29950 of 2024

K.M.Mohanraj

... Petitioner

Vs.

The Sub-Registrar,
Joint-II, Office of the Sub-Registrar,
Gobichettipalayam,
Erode District-638 452.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the Respondent relating to Refusal Check Slip No.RFL/2-Joint Sub-Registrar, Gobichettipalyam, dated 21.08.2024 and quash the same as illegal and consequently direct the respondent to register the sale deed presented by the petitioner for registration without insisting for the production of original parent document.

For Petitioner : Mr.V.Karthikeyan

For Respondent : Mr.T.Chezhiyan
Additional Government Pleader



W.P. No.29950 of 2024

WEB COPY

ORDER

Aggrieved by the impugned refusal slip issued by the Respondent refusing to register the sale deed presented by the petitioner for registration, the petitioner has come before this Court.

2. According to the petitioner, the properties situated in Polavakkalipalayam in Gobichettipalayam Taluk bearing four survey numbers in S.No.320/2 (62 cents), S.No.321/4 (72 cents), S.No.321/3(70 cents), S.No.320/3 (33 ¼ cents) originally belonged to his vendor Sundaravadivel. The subject properties were acquired by Sundaravadivel's father, by way of succession as the sole legal heir. Thereafter, the petitioner purchased the subject properties for a sale consideration of Rs.12,05,000/- and the sale deed was executed by Sundaravadivel on 21.08.2024. The same was presented for registration before the Respondent, however the Respondent refused registration on the ground that the petitioner failed to produce the original title document.

3. The learned counsel for the petitioner submitted that production of original title document is not necessary for registration of document when the originals are misplaced.



WEB COPY

4. The learned Additional Government Pleader appearing for the Respondent by relying on Rule 55A of the Registration Act submits that unless the original title document is produced, Respondent cannot register the document.

5. The issue regarding production of original title document was considered by this Court in the case of ***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 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,*



W.P. No.29950 of 2024

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 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 fact, the Division Bench of this Court in the case of **Pappu vs. The Sub-Registrar Rasipuram** in **W.A.No.1160 of 2024 dated 27.09.2024**, also held



W.P. No.29950 of 2024

that production of original title document is not necessary for considering registration of the document.

7. In view of the law settled by the above mentioned case laws, the impugned order cannot be sustained and accordingly the writ petition stands allowed by quashing the impugned order. The petitioner is directed to represent the document before the Respondent with an affidavit mentioning misplacement of the document and newspaper advertisement in Tamil daily having wide circulation in Erode district, as indicated in *Venugopal case* cited supra, within a period of two weeks from the date of receipt of a copy of this order. The Respondent shall consider the same for registration, if it is otherwise in order. No costs.

21.10.2024

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
mka

To:
The Sub-Registrar,
Joint-II, Office of the Sub-Registrar,
Gobichettipalayam,



Erode District-638 452.

WEB COPY



W.P. No.29950 of 2024