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W.P. No.30816 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.30816 of 2024

K.Santhi

... Petitioner

Vs.

The Sub-Registrar,
Joint II Sub-Registrar Office,
Chengalpattu District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the Respondent herein to register forthwith the Settlement deed dated 18.09.2024 in vide Temporary Number TP/193625514/2024 on representation of the same by the petitioner intended to settle the petitioner share of Grama Natham property situated at Kanthalur Village, Chengalpattu Taluk and District comprised in Old Survey No.110 and New Survey No.110/2 admeasuring to extent of 2437.50 sq.feet.

For Petitioner

: Mr.G.Mageshkumar

For Respondent

: Mr.M.Shahjahan

Special Government Pleader



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ORDER

The petitioner herein seeks a direction to the Respondent to register the settlement deed dated 18.09.2024 executed by her in favour of her daughter in respect of the property situated in Old Survey No.110 and New Survey No.110/2 measuring 2437.50 sq.feet situated in Kanthalur Village, Chengalpattu Taluk and District.

2. It is the case of the petitioner that the above mentioned property was purchased by her husband and registered under sale deed dated 28.09.2005. He died intestate on 14.07.2018 leaving behind the petitioner and her daughter Sriranjani. Now, the petitioner executed a settlement deed settling her half share in the subject property in favour of her daughter on 18.09.2024 and presented the same for registration before the Respondent, however the Respondent returned the document mainly on the ground that the petitioner failed to produce the original title document.

3. In the above affidavit filed by the petitioner dated 25.09.2024, it is stated that the original sale deed executed in favour of her husband was misplaced and the same was untraceable. Relying on the said averment, the



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learned counsel for the petitioner submitted that the Respondent may be directed to register the document based on the affidavit filed by the petitioner.

4. The learned Special Government Pleader who takes notice for the Respondent submitted that unless the original title document is produced by the petitioner, the document cannot be considered for registration, in view of Rule 55A of the Registration Rules.

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, 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."



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

7. In view of the law laid down in the above mentioned decisions, the Respondent is not entitled to return the document on the ground that the petitioner failed to produce the original title document. Therefore, the petitioner is directed to represent the document along with an affidavit mentioning the misplacement of the original document and newspaper advertisement in Tamil daily having wide circulation in Chengalpet district, as indicated above, within a period of two weeks from the date of receipt of a copy of this order. The Respondent shall consider the registration of the document, if it is otherwise in order.

8. Accordingly, the writ petition stands disposed of. No costs.

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Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

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S. SOUNTHAR, J.

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To:
The Sub-Registrar,
Joint II Sub-Registrar Office,
Chengalpattu District.

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