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W.P.No.32296 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2024

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.32296 of 2024

S.Palanivel

... Petitioner

VS.

The Sub Registrar,
Magudanchavadi Sub Registrar Office,
Pachiamman Nagar, Kuppandapalayam,
Magudanchavadi,
Sankagiri Taluk,
Salem District – 637 103.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent pertaining to the Refusal Check Slip in Refusal No. RFL/Magudanchavadi/294/2024 dated 20.09.2024 quash the same and consequently direct the respondent to admit and register the sale deed dated 20.09.2024 executed by the petitioner in favour of P.Selvi with respect to the properties outlined in the Doc. No. 190 of 1985 on the file of SRO, Magudanchavadi without insisting production of original title deed.

For Petitioner : Mr.K.P.P.Raja Raja Chozhan

For Respondent : Mr.M.Shahjahan
Special Government Pleader



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ORDER

WEB COPY By consent of both the learned counsel appearing for the petitioner as well as respondent, this writ petition is disposed of at the admission stage itself.

2. Aggrieved by the impugned Refusal Check Slip in Refusal No. RFL/Magudanchavadi/294/2024, dated 20.09.2024 issued by the respondent refusing to register the Sale Deed presented for registration on the ground that the original title document was not produced, the petitioner has come before this Court.

3. It is the case of the petitioner that the subject property was purchased by his father on 18.02.1985 under a registered Sale Deed vide Document No.190 of 1985. After death of petitioner's father, the subject property devolved on petitioner and his sisters. Subsequently, the petitioner's sisters executed a Release Deed on 08.09.2020 releasing their share in favour of the petitioner. Thus, the petitioner is entitled to right over the subject property. Later, the petitioner along with his son and daughter executed a Sale Deed in favour of one P.Selvi on 20.09.2024 and presented



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the same for registration before the respondent. The respondent refused registration on the ground that the petitioner failed to produce the original title document namely Sale Deed in favour of the petitioner's father. Aggrieved by the same, the petitioner has come before this Court.

4. The learned counsel appearing for the petitioner would submit that production of original title document of the petitioner's father is not necessary for the purpose of registration and the respondent is not entitled to refuse registration on the ground that the petitioner failed to produce the original title document. The learned counsel by inviting the attention of this Court to the averments found in the affidavit, submitted that the original title deed in favour of his father was misplaced.

5. Mr.M.Shahjahan, learned Special Government Pleader appearing for the respondent, by relying on Rule 55-A of the Registration Rules, submits that unless original title document is produced by the petitioner, the Registering Authority is not entitled to consider the document for registration.



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6. The issue relating to non-production of original title document by the presentant 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 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.*



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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.”

7. 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 production of original title document is not essential for the purpose of registration of subsequent document.



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8. In view of the law laid down in the above mentioned case laws, the respondent is not entitled to refuse registration on the ground that the petitioner failed to produce the original title document namely Sale Deed in favour of his father dated 18.02.1985. Accordingly, the impugned Refusal Check Slip in Refusal No. RFL/Magudanchavadi/294/2024, dated 20.09.2024 issued by the respondent is set aside.

9. The petitioner is directed to represent the document before the respondent for registration along with affidavit narrating the circumstances for his failure to produce the original title document in favour of his father and newspaper advertisement as indicated above, 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.

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

29.10.2024

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

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S.SOUNTHAR, J.

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