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W.P.No.31271 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2024

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.31271 of 2024

S.Kanagaraj

... Petitioner

VS.

The Sub-Registrar,
Office of the Sub-Registrar Office,
Salem East Joint 1,
Salem District.

... 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 relating to the Impugned Refusal Check Slip in No. RFL/Salem East Joint 1 SRO/157/2024 dated 27.09.2024 issued by the respondent and quash the same and consequently direct the respondent to register the Settlement Deed dated 27.09.2024 presented by the petitioner.

For Petitioner : Mr.L.Ramanathan

For Respondent : Mr.B.Vijay
Additional Government Pleader

ORDER

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.



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2. Aggrieved by the impugned Refusal Check Slip in No. RFL/Salem

East Joint 1 SRO/157/2024, dated 27.09.2024 issued by the respondent refusing to register the Settlement Deed dated 27.09.2024 presented for registration, the petitioner has come before this Court.

3. According to the petitioner, originally the petitioner and his wife-Krishnaveni purchased 3900 sq.feet of land in Survey No.207/1 situated at Ammapettai Village, Salem Town, Salem from one Arumugam through his Power Agent-C.Balasubramanian under a registered Sale Deed dated 26.08.1982 vide Document No.2678 of 1982 on the file of the Sub Registrar Office, Salem East Joint 1, Salem District. A portion of the said property was settled by them in favour of their elder daughter-Kamatchi on 12.04.2017 and the said document was registered as Document No.1167 of 2017 on the file of the respondent. Now, the petitioner and his wife want to settle the property retained by them in favour of their other sons and daughter. The petitioner and his wife executed a Settlement Deed on 27.09.2024 and presented the same for registration before the respondent. The same was refused registration mainly on the ground that the petitioner failed to produce the original parent title document dated 26.08.1982.



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Aggrieved by the same, the petitioner has come before this Court.

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4. The learned counsel appearing for the petitioner by taking this Court to the averments contained in the affidavit submitted that the original parent title document was misplaced during transit and therefore, he is unable to produce the same before the Registering Authority. The learned counsel further submitted that failure to produce the original title document is not a ground to refuse registration.

5. Mr.B.Vijay, learned Additional Government Pleader appearing for the respondent, by relying on Rule 55-A of the Registration Rules, submits that unless the original title document is produced by the petitioner, the same cannot be considered for registration by the Registering Authority.

6. The question relating to failure to produce original parent 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:-



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*“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



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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 expressed the view that failure of the presentant to produce the original title document cannot be a ground to reject the registration.

8. In view of the law settled in the above mentioned case laws, the impugned Refusal Check Slip in No. RFL/Salem East Joint 1 SRO/157/2024, dated 27.09.2024 issued by the respondent cannot be allowed to stand and accordingly, the same is set aside.



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9. The petitioner is directed to represent the document for registration before the respondent along with affidavit mentioning the misplacement of the original title document and newspaper advertisement in Tamil Daily having circulation in Salem District as indicated in Venugopal case cited supra, 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. No costs.

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

24.10.2024

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

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The Sub-Registrar,
Office of the Sub-Registrar Office,
Salem East Joint 1,
Salem District.



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S.SOUNTHAR, J.

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