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W.P.No.31910 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2024

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.31910 of 2024

Saravanan A

... Petitioner

VS.

1.The District Registrar,
District Registrar Office,
Puducherry Road,
Villupuram-605 602

2.The Sub-Registrar,
Office of Sub-Registrar-Valavanur,
Kalaingar Nagar, Valavanur,
Villupuram-605 108.

3.Annadurai

... Respondents

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 on the file of the 2nd respondent in proceedings refusal check slip No: RFL/Valavanur/64/2024 dated 15.10.2024 and quash the same as illegal, incompetent and without jurisdiction and further direct the 2nd respondent to register the settlement deed dated 14.10.2024 presented by petitioner, without insisting production of original parent document within a stipulated time.



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For Petitioner : Mr.A.Arun Kumar

For R1 and R2 : Mr.B.Vijay
Additional Government Pleader

ORDER

By consent of both the learned counsel appearing for the petitioner as well as respondents 1 and 2, this writ petition is disposed of at the admission stage itself.

2. Aggrieved by the impugned refusal check slip in No: RFL/Valavanur/64/2024, dated 15.10.2024 issued by the 2nd respondent refusing to register the Settlement Deed dated 14.10.2024 presented for registration, the petitioner has come before this Court.

3. It is the case of the petitioner that he acquired right over the subject property under a registered Sale Deed dated 28.10.2022. After purchase, the petitioner executed a Settlement Deed in favour of his wife on 14.10.2024 and presented the same for registration before the 2nd respondent. The said document was refused registration by the 2nd respondent on the ground that



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petitioner failed to produce the original title document in his favour.

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

4. The learned counsel appearing for the petitioner by taking this Court to the averments found in the affidavit that the original parent title document is in the custody of his father, who refused to handover the same, submitted that failure to produce the original title document may not be a ground to refuse registration as per the law settled by this Court in various decisions.

5. Mr.B.Vijay, learned Additional Government Pleader appearing for the respondents 1 and 2, by relying on Rule 55-A of the Registration Rules, submits that unless the original title document is produced by the petitioner, the 2nd respondent cannot consider the document for registration.

6. The issue involved in this matter relating to production of original title document was already 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



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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



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



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8. In view of the law settled in the above mentioned case laws, the 2nd respondent is not justified in refusing registration on the ground that the petitioner is failed to produce the original title document. Therefore, the impugned refusal check slip in No: RFL/Valavanur/64/2024, dated 15.10.2024 issued by the 2nd respondent is set aside.

9. The petitioner is directed to represent the document for registration before the 2nd respondent along with affidavit narrating the circumstances for his failure to produce the original title document in his favour, within a period of two weeks from the date of receipt of copy of this order. The 2nd 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.

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

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2. The Sub-Registrar,
Office of Sub-Registrar-Valavanur,
Kalaingar Nagar, Valavanur,
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S.SOUNTHAR, J.

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