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W.P.No.31838 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2024

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.31838 of 2024

Kamala C

... Petitioner

VS.

1.The District Registrar,
District Registrar Office,
Salem District.

2.The Sub-Registrar,
Office of Sub-Registrar-Veerapandi,
Thiruchencode Main Road, Veerapandi,
Salem-636 308.

3.Kumaravel M

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent to register the settlement deed presented by the petitioner without insisting for the original of the settlement deed dated 26.08.2019 registered as document No.2617/2019 SRO, Veerapandi, within a stipulated time.

For Petitioner : Mr.A.Arun Kumar

For R1 and R2 : Mr.P.Harish
Government Advocate



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ORDER

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The petitioner herein seeks a direction to the 2nd respondent to register the Settlement Deed dated 03.10.2024 without insisting the parent title document of the petitioner.

2. It is the case of the petitioner that subject property and other properties were settled by petitioner's husband in her favour under a Settlement Deed dated 26.08.2019. Thereafter, a portion of the property settled in favour of the petitioner was settled by her in favour of children of petitioner's husband's first wife. At that point of time, the original settlement deed executed in favour of petitioner was handed over to one of the settlee namely Kumaravel. Now, the petitioner wants to execute Settlement Deed in favour of her own daughter in respect of the properties retained by her. The present Settlement Deed dated 03.10.2024 was presented before the 2nd respondent for registration. However, the 2nd respondent insisting on production of Settlement Deed in favour of petitioner dated 26.08.2019 for verification before registration of the document. Therefore, the petitioner has come before this Court.



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3. The learned counsel appearing for the petitioner submits that the production of original title document is not necessary for registering the subsequent document and hence, the 2nd respondent is not justified in insisting production of original title document.

4. The learned counsel by taking this Court to the averment found in the affidavit and additional affidavit dated 18.10.2024 submits that the original Settlement Deed in favour of petitioner was handed over to one Kumaravel as mentioned above and he has refused to handover the same to the petitioner. Hence, the petitioner is not in a position to produce the original title document before the Registering Authority.

5. The learned Government Advocate appearing for the respondents 1 and 2, by relying on Rule 55-A of the Registration Rules, submits that unless original title document is produced by the petitioner, the Registering Authority cannot consider the document presented for registration.

6. The issue relating to non-production of original title document by the presentant was considered by this Court in *Venugopal vs. Inspector*



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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



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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 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 settled in the above mentioned case laws, this Court is inclined to issue a positive direction to the 2nd respondent to register the Settlement Deed presented by the petitioner dated 03.10.2024 without insisting production of original title document namely Settlement Deed dated 26.08.2019, if the document is otherwise in order. However, the petitioner is directed to produce the certified copy of the Settlement Deed dated 26.08.2019 before the 2nd respondent along with affidavit narrating the reasons for her failure to produce the original title document, within a period of two weeks from the date of receipt of copy of this order. On production of certified copy with affidavit, the 2nd respondent shall register that document presented for registration, if it is otherwise in order.

9. With the above directions, the Writ Petition stands disposed of. No costs.

30.10.2024

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



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To

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S.SOUNTHAR, J.

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