



W.P.No.31696 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2024

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.31696 of 2024

Rajeshwari

... Petitioner

VS.

1.The Inspector General of Registration
100, Santhome High Road,
Mullima Nagar, Mandavelipakkam,
Raja Annamalai Puram, Chennai – 600 028

2.The Sub-Registrar
Office of the Joint II Sub-Registrar,
Kamarajar Road, Taluk Office Campus,
Kanchipuram – 631 501

... 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 of impugned order passed by the 2nd Respondent in RFL/2 Joint Sub Registrar Kanchipuram/32/2024 dated 25.09.2024 and quash the same as illegal, arbitrary and non-est in law and consequently, direct the 2nd respondent to register the executed settlement deed dated 25.09.2024 and release the registered settlement deed to the petitioner within the time stipulated by this Court.



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For Petitioner : Mr.S.Santosh

For Respondents : Mr.P.Harish
Government Advocate

ORDER

Aggrieved by the impugned refusal check slip in RFL/2 Joint Sub Registrar Kanchipuram/32/2024, dated 25.09.2024 issued by the 2nd respondent refusing to register the Settlement Deed presented for registration on the ground that the presentant failed to produce the original title document, the petitioner has come before this Court.

2. It is the case of the petitioner that she purchased the subject property under a registered Sale Deed dated 27.02.1980 vide Document No.500 of 1980 on the file of the Sub Registrar Office, Kanchipuram. The petitioner settled the subject property in favour of her daughter by executing a Settlement Deed dated 25.09.2024. When the same was presented for registration, the 2nd respondent refused to register the same on the ground that the petitioner failed to produce the original of the parent title document. Aggrieved by the same, the petitioner has come before this Court.



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3. The learned counsel appearing for the petitioner by taking this Court to the affidavit filed in support of the writ petition, would submit that the original title document was misplaced by the petitioner and hence, she produced certified copy of the same before the 2nd respondent for registration. In spite of the same, the 2nd respondent refused to register the document. The learned counsel also submit that failure to produce the original title document is not a ground to refuse registration.

4. Mr.P.Harish, learned Government Advocate appearing for the respondents, by relying on Rule 55-A of the Registration Rules, submits that unless original parent document is produced by the petitioner, the Registering Authority cannot entertain the document presented for registration.

5. The issue relating to failure to produce the original 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:-

“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.”

6. 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 failure to produce the original title document cannot be a ground to refuse registration.

7. In view of the law settled in the above mentioned case laws, the impugned refusal check slip in RFL/2 Joint Sub Registrar Kanchipuram/32/2024 dated 25.09.2024 issued by the 2nd respondent cannot be sustained and accordingly, the same is set aside.



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8. The petitioner is directed to represent the document for registration before the 2nd respondent along with affidavit mentioning the misplacement of the original title document in favour of the petitioner and newspaper advertisement as indicated above, 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. No costs.

9. 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
dm



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To

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S.SOUNTHAR, J.

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