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W.P.No.32518 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2024

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.32518 of 2024

C.Anand

... Petitioner

VS.

1.The Inspector General of Registration,
O/o.Inspector General of Registration,
No:100, Santhome High Road,
Chennai – 600 028

2.The District Registrar,
O/o.District Registrar,
Chennai Central Zone,
No.268, Bharathi Salai,
Express Estate, Royapettah,
Chennai – 600 014

3.The Sub-Registrar,
O/o.Sub-Registrar,
Periamet,
Chennai – 600003.

... 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 relating to the impugned order passed by 3rd Respondent dated 09.09.2024 made in Refusal Check Slip Reference No.RFL/Periamet/72/2024 refusing to register the Lease Deed and to quash the same and consequently directing the 3rd Respondent to register Lease Deed dated 09.09.2024, executed by



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Dr.V.Chockalingam, S/o.Dr.C.Venkatachalam to and in favour of
Mr.R.Saravana Banu, S/o.Rathinam, on the file of Sub-Registrar, Periamet.

For Petitioner : Mr.P.K.Ganesh

For Respondents : Mr.P.Harish
Government Advocate

ORDER

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

2. Aggrieved by the impugned Refusal Check Slip in No.RFL/Periamet/72/2024, dated 09.09.2024 issued by the 3rd respondent refusing to register the Lease Deed presented for registration, the petitioner has come before this Court.

3. It is the case of the petitioner that he purchased the subject property under a registered Sale Deed dated 22.04.1988. He executed a Lease Deed in favour of M/s.Punjab National Bank, Taylors Road Branch, Chennai on 09.09.2024 and presented the same for registration before the 3rd respondent. The registration of the same was refused mainly on the ground



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

Aggrieved by the same, the petitioner is before this Court.

4. The learned counsel appearing for the petitioner would submit that failure of the petitioner to produce the original title document is not a ground to refuse registration of Lease Deed. He relied on the averment found in the affidavit filed in support of the writ petition and submitted that the original title document was misplaced as early as 2009 and police complaint was also lodged in this regard.

5. Mr.P.Harish, learned Government Advocate appearing for the respondents, by relying on Rule 55-A of the Registration Rules, submits that unless original title document is produced by the petitioner, the 3rd respondent cannot consider the document 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 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



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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.

8. In view of the law settled in the above mentioned case laws, the 3rd respondent is not entitled to refuse registration of the Lease Deed on the



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ground that the petitioner failed to produce the original title document in his favour. Accordingly, the impugned Refusal Check Slip in No.RFL/Periamet/72/2024, dated 09.09.2024 issued by the 3rd respondent is set aside.

9. The petitioner is directed to represent the document before the 3rd respondent for registration along with affidavit narrating the reason for his failure to produce the original title document in his favour and newspaper advertisement as indicated above, within a period of two weeks from the date of receipt of copy of this order. The 3rd 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.

30.10.2024

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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