



W.P.(MD).No.1814 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2024

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.1814 of 2024

Egappan

... Petitioner

vs.

- 1.The Inspector General of Registration,
Office of the Inspector General of Registration,
No.100, Santhome High Road,
Mullimanagar, Manthavelipakkam,
Raja Annamalaipuram,
Chennai.
- 2.The Deputy Inspector General of Registration,
Office of the Deputy Inspector General of Registration,
Ramanthapuram District.
- 3.The District Registrar,
Office of the District Registrar,
Sivagangai,
Sivagangai District.
- 4.The District Registrar,
Office of the District Registrar,
Karaikudi,
Sivagangai District.



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5.The Sub-Registrar,
Office of the Sub-Registrar,
Devakottai.
Sivagnagai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Mandamus, directing the respondents to accept the petitioner's application in No.S1LANDVV202302201676089 on the file of the respondent No.5 for registration by considering the petitioner's representation dated 18.11.2023 in accordance with law.

For Petitioner : Mr.K.M.Karunakaran
For Respondents : Mr.D.S.Nedunchezian
Government Advocate

ORDER

This Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the respondents to accept the petitioner's application in No.S1LANDVV202302201676089 on the file of the respondent No.5 for registration by considering the petitioner's representation, dated 18.11.2023 in accordance with law.



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2. The case of the petitioner is that the property in Town Survey No. “O” 2/40 and 52, Bharathi Street, Door No.7-11, Ward No.12, Now Ward No.19, Devakottai Town, Devakottai Sub-Division, Karaikudi, Sivagangai District is the petitioner's ancestral property. On 21.02.2023 the petitioner's mother appointed his brother namely Muthaiya Chettiyar as power agent for her part of property vide Document No.748/2023 on the file of the Respondent No.5. On 23.02.2023 his sister Valliyammai appointed his brother Muthaiya Chettiar's son namely Eganathan as poer agent for her part of the property vide Document No.816/2023 on the file of the Respondent No.4. Thiru.Muthaiya Chettiyar's legal heir namely Thirumathi.Gnanam was died, therefore, he husband namely Thiru.Meenatchi Sundaram @ PR.M.Sundram and her son Murugappan are her legal heirs and entitle to get right to owner of said Thirumathi.Gnanam's part. On 17.02.2023 Thiru.Meenatchi Sundaram @ PR.M.Sundram was appointed as power agent for his son namely Murugappan vide Document No.18/2023 on the file of the Respondent No.5 and also the said thiru.Meenatchi Sundaram @ PR.M.Sundram is also owner. They are the power agents and owners of the alleged said



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property. Therefore, they decided to sell the said property to Thirumathi.C.Meenatchi, wife of Chokklingam for Rs.7,00,000/- with concern to the all legal heirs. They applied for Registration application in S1LANDV202302201676080 and pay Rs.49,660/- as fixed by the Tamil Government Registration Department and get acknowledgment.

3. On 18.03.2023 they went to the fourth respondent office for registration, but the fifth respondent denied to accept register the said sale deed for non-availability of the document No.1463 on the file of the fourth respondent. But the said document was handed over by the petitioner to one Thiru.C.V.R.Subramanian, his assistant Thiru.M.Sudharshan, son of Mahalingam missed the said document and lodged a complaint before the Thirupathur Police Station. If the respondent No.4 failed to accept their registration, they are commit like cheating against the said Meenatchi. On 18.11.2023 the petitioner has sent a representation to the respondents and requested to accept his application. The respondents 3 & 4 forwarded the said representation to the fifth respondent, but till now, the respondents have not taken any



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action on the representation. Hence, the petitioner has filed the present writ petition.

4. Heard Mr.K.M.Karunakaran, learned counsel for the petitioner and Mr.D.S.Nedunchezian, learned Government Advocate appearing for the respondents.

5. Usually, the Court will direct the petitioner to give a police complaint of missing document and after receipt of non-traceable certificate, issue a publication in newspaper regarding the same and afterwards get the certified copy of the original and submit all the three documents to the concerned Registrar and the said Registrar shall consider the same and pass appropriate orders for registration. Now, the Government of Tamil Nadu, in Amendments to the Registration Rules under the Registration Act, 1908, has passed G.O.(Ms.)No.129, Commercial Taxes and Registration (J2) 5th September 2022, No.SRO.A-16(a)2022. After Rule 55, the following Rule shall be inserted, namely:



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“55A. (i) The registering officer before whom a document relating to immovable property is presented for registration, shall not register the same, unless the presentant produces the previous original deed by which the executant acquired right over the subject property and an Encumbrance Certificate pertaining to the property obtained within ten days from the date of presentation:

Provided that in case an encumbrance as to mortgage, orders on attachment of property, sale agreement or lease agreement exists over the property, the registering officer shall not register such document if the time limit for filing of suit is not lapsed or No Objection Certificate is not granted by the appropriate authority or raising of the attachment is not done, as the case may be:

Provided further that in case the previous original deed is not available as the property being an ancestral one, the registering officer shall not register such document, unless the presentant produce any revenue record evidencing the executant's right over the subject property such as patta copy issued by Revenue Department or tax receipt:

Provided also that if the previous original deed is lost, the registering officer shall register such document only on production of non-traceable Certificate issued by the Police department along with the advertisement published in the local Newspaper as to the notice of loss of the previous original deed:

Provided also that production of the previous original deed shall not be necessary where the Government or a



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Statutory body is the executant of the document or for such class of documents as may be notified by the Inspector General of Registration, from time to time.

(ii) The registering officer, on being satisfied that the description of the property contained in the document presented for registration conforms with the description of the property found in the previous original deed produced by the presentant as provided under this rule, he shall inscribe the word 'verified' on a conspicuous portion of the first page of such title deed and affix his signature with date and thereafter cause scanning of page containing such inscription as a reference document.

(iii) In case where revenue records are produced under this rule, the same shall be scanned as the main document and where Non-Traceable Certificate and the advertisement published in the local Newspaper are submitted by the presentant, the same shall be scanned as reference documents:

Provided that such verification and scanning of the previous original deed or record in the manner provided under this rule, shall not be construed to be an act of ascertaining the validity of the document presented for registration and also the same shall not absolve or deprive any person from the provisions contained in Parts XIV and XV of the Registration Act, 1908 (Central Act XVI of 1908).";
(2) in rule 162, after item XIX, the following item shall be added, namely:-

"XX. Rule 55A. – That the presentant of the document fails



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to produce the original deed or record specified in rule 55A.”

6. In view of the above, this Court directs the petitioner to produce the police complaint, the non-traceable certificate, the publication of missing document issued in the local newspaper regarding the loss of original deed and the certified copy of original document issued by the Registration Department before the respondents and on receipt of such documents, the respondents are directed to consider the same and pass appropriate orders, within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above directions, this Writ Petition is disposed of. No costs.

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Index: Yes/No
Internet: Yes/No

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V.BHAVANI SUBBAROYAN,J.

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