



W.P.(MD)No.1483 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.1483 of 2023

S.Stella Mary

... Petitioner

Vs.

1.The Inspector General of Registration,
Registration Department,
Government of Tamil Nadu,
Chennai.

2.The Deputy Inspector General of Registration,
Karur District, Karur.

3.The Sub-Registrar,
Krishnarayapuram,
Karur District.

4.N.Periyasamy
(R4 is suo-motu impleaded vide Court order
dated 27.01.2023 in W.P.(MD)No.1483/2023)

.... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the original records pertaining to the impugned order in Na.Ka.No.2126/Aa1/2022 issued by the 2nd respondent dated 17.05.2022 and quash the same and further direct the 3rd respondent to register the settlement deed executed by the petitioner



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in favour of petitioner's son Akash and presented by the petitioner for registration before the 3rd respondent on 12.04.2022.

For Petitioner : Ms.T.Banumathy
For Respondents : Mr.P.Subbaraj,
Spl. Govt. Pleader for R1 to R3
Mr.K.Arunraj for R4

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, calling for the original records pertaining to the impugned order in Na.Ka.No.2126/Aa1/2022 issued by the 2nd respondent dated 17.05.2022 and quash the same and further direct the 3rd respondent to register the settlement deed executed by the petitioner in favour of petitioner's son Akash and presented by the petitioner for registration before the 3rd respondent on 12.04.2022.

2. Heard learned counsel for the petitioner, the learned Special Government Pleader appearing for the respondents 1 to 3 and the learned counsel appearing for the fourth respondent and perused the materials available on record.

3. It is the grievance of the writ petitioner that when the settlement deed was presented for registration, the respondents refused to register the same on the



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ground that the original registered deed was not produced by the petitioner.

Challenging the same, the petitioner has filed this Writ Petition.

4. The learned counsel for the petitioner submitted that the petitioner's husband executed sale deeds in respect of the subject property to repay the loan for heavy usurious interests obtained from the financiers in Karur. The fourth respondent has filed a suit in O.S.No.138/2019 for money before the District Court, Karur, which was dismissed. Thereafter, the fourth respondent filed a petition in R.P.No.7/2022 in O.S.No.138/2019 for return of the original title deeds pertaining to the properties. The petitioner has also filed a petition to return the original title deeds, which was dismissed by the trial Court on the ground that since the said title deeds were filed by the plaintiffs, it should be returned only to him. However, she is taking steps to recover the original title deeds from the fourth respondent. Since the original title deed is available with the 4th respondent, the petitioner could not be able to produce the same before the Registering Authorities.

5. It is relevant to note that this Court in the case of ***Federal Bank v Sub Registrar***, reported in **2023 (2) CTC 289** has held that Sub Rule XX of Rule 162 has no statutory backing. The said order has been followed by a Division



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Bench of this Court in the case of *M. Ariyanatchi v Inspector General* made in *W.A.(MD).No. 856 of 2023, dated 27.06.2023*, wherein, Division Bench of this Court has held that, for instance, the original document is held by one co-owner, the Sub-Registrar can always take an undertaking or a declaration in the form of an affidavit from the vendors to the effect that the original document is with the said person and register the document. Hence, the Sub-Registrar cannot refuse to register a document merely because the original parent deed has not been produced. In such view of the matter, the impugned order has to be set aside.

6. Accordingly, this Writ Petition is allowed and the impugned order of the second respondent dated 17.05.2022 stands quashed and the third respondent is directed to register the settlement deed dated 12.04.2022 presented by the petitioner within a period of fifteen days from the date of receipt of a copy of this Order. There shall be no order as to costs.

28.08.2024

NCC : Yes/No
Index : Yes/No

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