



W.P.(MD)No.1575 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.1575 of 2023

Ponrathinam

... Petitioner

Vs.

The Sub-Registrar,
Srivilliputhur,
Virudhunagar District.

.... Respondent

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 records relating to the impugned refusal number:RFL/Srivilliputhur/47/2022, dated 06.12.2022 issued by the respondent and quash the same as illegal and consequently, direct the respondent to register the settlement deed dated 07.11.2022 executed in favour of the petitioner's daughter namely Tmt.Jeyanthi, Wife of Thiru.Rajagopalan and release the same within the time limit fixed by this Court.

For Petitioner : Mr.S.Venkatesh

For Respondent : Mr.P.Subbaraj,
Spl. Govt. Pleader



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ORDER

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This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned refusal number:RFL/Srivilliputhur/47/2022, dated 06.12.2022 issued by the respondent and quash the same as illegal and consequently, direct the respondent to register the settlement deed dated 07.11.2022 executed in favour of the petitioner's daughter namely Tmt.Jeyanthi, Wife of Thiru.Rajagopalan and release the same within the time limit fixed by this Court.

2. Heard the learned counsel for the petitioner and the learned Special Government Advocate Pleader appearing for the respondent and perused the materials available on record.

3. It is the grievance of the Writ Petitioner that when the petitioner presented the settlement deed executed in favour of her daughter for registration, the same was refused to be registered on the ground that the original document has not been produced. Challenging the same, the present Writ Petition has been filed.



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4. It is the contention of the petitioner that the petitioner's father executed registered Will in favour of her two daughters viz., the petitioner and her sister. The original Will is in the hands of the petitioner's sister and when she sold the property, she handed over the original Will to the purchaser. Hence, the petitioner is not able to produce the original Will before the registering authorities.

5. It is relevant 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 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 refusal slip has to be set aside.



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6. Accordingly, this Writ Petition is allowed and the impugned refusal slip of the respondent dated 06.12.2022 stands quashed and the respondent is directed to register the settlement deed dated 07.11.2022 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

vsm



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To
The Sub-Registrar,
Srivilliputhur,
Virudhunagar District.



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N.SATHISH KUMAR, J.

vsm

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