



W.P.(MD)No.5545 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.5545 of 2023
and W.M.P.(MD)Nos.5170 & 24779 of 2023

Reena

... Petitioner

Vs.

The Sub-Registrar,
Office Sub-Registrar,
Surandai,
Tenkasi 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 pertaining to the impugned refusal slip in Refusal Number:RFL/Surandai/29/2022 dated 07.12.2022 issued by the respondent and quash the same as illegal and arbitrary and consequently direct the respondent to register the settlement deed presented by the petitioner for registration without insisting for the production of the original parent document within the time fixed by this Court.

For Petitioner : Mr.R.Pon Karthikeyan

For Respondent : Mr.M.Siddarthan,
Addl. 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 pertaining to the impugned refusal slip in Refusal Number:RFL/Surandai/29/2022 dated 07.12.2022 issued by the respondent and quash the same as illegal and arbitrary and consequently direct the respondent to register the settlement deed presented by the petitioner for registration without insisting for the production of the original parent document within the time fixed by this Court.

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

3. It is the case of the writ petitioner that when the petitioner presented the settlement deed dated 07.12.2022 for registration, the respondent refused to register the same on the ground that the original parent document was not produced by the petitioner. Challenging the same, the petitioner has filed this Writ Petition.



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4. It is the contention of the petitioner that since the petitioner settled at Kerala, she could not trace the original parent document and hence, she is not 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 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.

6. Accordingly, this Writ Petition is allowed and the impugned refusal slip of the respondent dated 07.12.2022 stands quashed and the respondent is directed



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to register the settlement deed dated 07.12.2022 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. Consequently, connected miscellaneous petitions are closed.

28.08.2024

NCC : Yes/No
Index : Yes/No

vsm



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To
The Sub-Registrar,
Office Sub-Registrar,
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N.SATHISH KUMAR, J.

vsm

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