



W.P.(MD).No.8983 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.01.2024

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.8983 of 2023

Mookkayee @ Muthammal

... Petitioner

vs.

1.The Inspector General of Registration,
100, Santhome Road,
Chennai 600 028.

2.The District Registrar,
Office of Registration Department,
Court Campus, 1st Floor,
Contonment,
Trichy -1.

3.The Sub Registrar,
Office of Sub Registrar,
Thuvarankurichy,
Trichy District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified Mandamus, to call for the records pertaining to refusal check slipRFL/Thuvarankurichy/11/2023, dated 23.05.2023, issued by the third respondent (impugned order) herein and



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quash the same as illegal and against the principle of justice and consequently direct the third respondent herein to register the sale deed, executed by the petitioner in favour of the purchaser E.Murugesan and dispense with the production of the parent document and permit the petitioner to produce the certified copy of the Document No.950 of 1970 at the time of registration. (The prayer amended as per the order of this Court, dated 08.01.2024.)

For Petitioner : Mr.S.Muthumalairaja

For Respondents : Mr.D.S.Nedunchezian

Government Advocate

ORDER

This Writ Petition has been filed challenging the impugned refusal check slip issued by the third respondent dated 23.05.2023 and to quash the same and consequently direct the third respondent to register the sale deed executed by the petitioner in favour of the purchaser E.Murugesan and dispense with the production of the parent document and permit the petitioner to produce the certified copy of the Document No.950 of 1970 at the time of registration.



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2. According to the petitioner, she offered to sell the property in S.Nos.19/3 and 19/4 to an extent of 32 and 73 cents respectively situated at Nallur Village, Marungapuri Taluk, Trichy District to E.Murugesan and he has also accepted to purchase the said property for Rs.15,20,000/-. Therefore, she has approached the third respondent for registering the said property. But the third respondent has issued the refusal check slip on 23.05.2023, on the ground that without original parent document the sale deed could not be registered, as per Rule 55-A of the Tamil Nadu Registration Rules. Challenging the same, the present writ petition has been filed.

3. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents.

4. 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



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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:

“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



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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 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



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

5. 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 third respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of such documents, the third respondent is directed to consider the same and pass appropriate orders, within a period of four weeks



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thereafter.

6. 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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To

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100, Santhome Road,
Chennai 600 028.

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V.BHAVANI SUBBAROYAN,J.

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