



W.P(MD)No.14193 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.09.2024

CORAM :

**THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

W.P(MD)No.14193 of 2022

Basheer Mydeen

... Petitioner

Vs.

1.The Sub Registrar (Registration),  
Melapalayam, Tirunelveli.

2.Kaja Mydeen  
3.Sahul Hameed  
4.Noorjahan  
5.M.I.Pookoya

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned refusal check slip issued by the 1<sup>st</sup> respondent in RFL/Melapalayam/41/2022, dated 19.05.2022 and quash the same and consequently, to direct the 1<sup>st</sup> respondent to register the sale deed in return the document within the time fixed by this Court.

For Petitioner : Mr.K.K.Udayakumar,  
for Mr.H.Arumugam

For R1 : Mr.P.Subbaraj,  
Special Government Pleader

For R2 to R4 : Mr.S.Packiamuthu

For R5 : Mr.A.Abdul Kabur



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## **ORDER**

Challenge has been made to the refusal check slip issued by the 1<sup>st</sup> respondent dated 19.05.2022.

2.It is the case of the petitioner that when he presented the sale deed dated 19.05.2022 executed by the respondents 2 to 4 for registration, the same has been rejected by the 1<sup>st</sup> respondent on the ground that the original document has not been filed and legal heir certificate has not been produced. The same is under challenge in this Writ Petition.

3.The learned counsel appearing for the 5<sup>th</sup> respondent would submit that the property originally belonged to one Asiyal Beevi. She died, leaving behind her two daughters, namely, Mahabooba and Alima Beevi. Thereafter, the property in question had been settled in their favour. The said Mahabooba had one daughter, namely, Sulaiha Beevi and the said Alima Beevi had one son, namely, Kaja Mydeen. After the death of the said Mahabooba and Alima Beevi, their legal heirs were enjoying the property in question jointly without any hindrance. While being so, the said Kaja Mydeen had released his share in favour of Sulaiha Beevi on 10.11.1997. Thereafter, the said Sulaiha Beevi had executed a settlement deed in favour of her husband, namely, T.M.Sintha in



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respect of half share of the property. Once again, her husband had executed his undivided half share in favour of his wife / Sulaiha Beevi on 25.06.1999. On the same day, the said Sulaiha Beevi sold 1/4<sup>th</sup> share to the said Kaja Mydeen. Hence, according to them, the said Kaja Mydeen is entitled to 1/4<sup>th</sup> share and the said Kaja Mydeen died leaving behind his wife Rahmat Beevi alone as his legal heir as they have no issues. The said Rahmat Beevi has given the property in question through oral Hiba to the wife of the 5<sup>th</sup> respondent and then his wife executed a general power of attorney to the 5<sup>th</sup> respondent. There is no nexus between the said Kaja Mydeen and the respondents 2 to 4. Therefore, he disputed the title of the petitioner's vendor.

4. At the outset, this Court is of the view that it is not the right forum to establish the title and whether the Hiba in favour of the 5<sup>th</sup> respondent's wife was voluntarily executed or not is a matter of evidence, which is to be seen before the competent Court of law. Similarly, how the property has been derived and the release deeds have been executed between the parties are also to be decided only by way of proof in the manner known to law. Further, mere registration of the document will not give any absolute title and take away the rights of the parties.



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5.It is to be noted that the impugned order has been passed on the ground that the original document has not been produced. The issue raised in this Writ Petition is no longer *res-integra*, in view of the judgment rendered by this Court in the case of ***Subramani vs. the Sub Registrar and others*** [WP.No. 11056 of 2024, dated 26.04.2024], in which it has been held as follows:

*“c. With regard to the refusal on the absence of parent document, this Court in the case of K.S. Vijayendran v. The Inspector General of Registration reported in (2011) 2 LW 648, Lakshmi Ammal v. The Sub Registrar, Villivakkam reported in 2015 SCC OnLine Mad 5868 and C. Moorthy v. Sub Registrar Aruppukottai reported in 2018 SCC OnLine Mad 3898, it was held that absence of a parent document is no ground to refuse registration. Pursuant to these judgments, sub-rule XX was introduced in Rule 162 authorizing the Sub-Registrar to refuse registration for non-production of the original title deed as required by Rule 55-A. 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.*

*Considering the above settled position of law, the Registrar cannot refuse to register the document merely on the ground of non production of parent document.”*



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6.In such view of the matter, the impugned order of the 1<sup>st</sup> respondent is quashed and this Writ Petition is allowed with a direction to the 1<sup>st</sup> respondent to register the document presented by the petitioner within a period of one week from the date of receipt of a copy of this order. It is made clear that the rights of the parties will be decided in the civil Court. No costs.

**25.09.2024**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No

*Yuva*

To  
The Sub Registrar (Registration),  
Melapalayam, Tirunelveli.



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**N.SATHISH KUMAR, J**

*Yuva*

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