



W.P.(MD)No.13150 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 30.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.13150 of 2023
and W.M.P.(MD)No.11124 of 2023

Chithra @ Meenatchi

... Petitioner

Vs.

1.The District Registrar,
Theni District, Theni.

2.The Sub Registrar,
Chinnamanoor,
Uthamapalayam Taluk,
Theni District.

.... 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 entire records pertaining to the impugned order passed by the 2nd respondent vide his proceedings in Refusal Check Slip No. RFL/Chinnamanoor/2/2023 dated 28.04.2023 quash the same and consequently direct the 2nd respondent to register the sale deed dated 28.04.2023 without insisting original document in the light of the order passed by this court in K.S.Vijayandran Vs IG OF Registration 2011(2) LW 648 within a stipulated period as prescribed by this Court.



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For Petitioner : Mr.S.Balaji
For Respondents : Mr.P.Subbaraj,
Spl. Govt. Pleader

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorarified mandamus, calling for the entire records pertaining to the impugned order passed by the 2nd respondent vide his proceedings in Refusal Check Slip No. RFL/Chinnamanoor/2/2023 dated 28.04.2023 quash the same and consequently direct the 2nd respondent to register the sale deed dated 28.04.2023 without insisting original document in the light of the order passed by this court in K.S.Vijayandran Vs IG OF Registration reported in 2011(2) LW 648, within a stipulated period as prescribed by this Court.

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



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3. It is the grievance of the Writ Petitioner that when the petitioner presented the sale deed 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.

4. It is the contention of the petitioner that the petitioner's grandfather executed a registered gift deed in favour of the petitioner. Since at that time, the petitioner was a minor, the possession of the subject property was handed over to the parents of the petitioner as natural guardian and while shifting the house, the original gift deed was misplaced by the parents of the petitioner. Hence, the petitioner is not able to produce the original gift deed 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-



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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 2nd respondent dated 28.04.2023 stands quashed and the 2nd respondent is directed to register the sale deed dated 28.04.2023 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 petition is closed.

30.08.2024

NCC : Yes/No
Index : Yes/No

vsm



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