



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.07.2024

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THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

WP(MD)No.13901 of 2024

K.Parvathy

... Petitioner

Vs.

1.The Inspector General of Registration,
Registration Department,
100, Santhom High Road,
Chennai – 600 122.

2.The District Registrar,
Madurai North Registration District,
Melur Circle, Othakadai,
Madurai District – 625 107.

3.The Sub Registrar,
Melur (West) Sub Registrar Office,
Melur, Melur Taluk,
Madurai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned refusal check slip issued by the 3rd respondent in Refusal Number RFL/Melur(West)/1/2024 dated 18.06.2024, and to quash the same as illegal and consequently direct the 3rd respondent to register the settlement deed dated 18.06.2024 in respect of the properties in Survey No.683/2 having an extent of 0.40.00 Ares, Survey No.678/7 having an extent of 0.51.50 Ares,



Survey No.683/6 having an extent of 0.02.50 Ares, Survey No.680/1 having an extent of 0.20.00 Ares, Survey No.680/2 having an extent of 0.18.50 Ares, Survey No.680/3 having an extent of 0.52.0 res, and Survey No.638/8 having an extent of 0.62.50 Aresm which are situated in Therkutheru Village, Melur Taluk, Madurai District without insisting for the production of the original title document.

For Petitioner : Mr.M.Senthil Kumar

For Respondents : Mr.R.Raghavendran, Government Advocate

ORDER

The petitioner wants to settle the petition mentioned property in favour of her son Balasubramanian. Registration was refused on the ground that parent deed was not produced in original. Challenging the same, this writ petition has been filed.

2.Properties were purchased under seven sale deeds in the year 1988. The petitioner is having an elder son by name Ganapathy. He is no more. His wife Meenakshi alleged to have taken away the original document. When the entitlement of the petitioner is beyond dispute and the original document is in the hands of a particular person who is declining to part with the same, the registering authority cannot refuse registration on that ground. The learned counsel for the petitioner draws my attention to the order of the Hon'ble



Division Bench dated 27.06.2023 in WA(MD)No.856 of 2023. Paragraph Nos.

13 and 14 of the said order read as follows :

"13.No doubt, requirement to produce the original document would be a safer method by which the Sub Registrar can ensure that the property belongs to the executant. But, that is not the only method. In the case on hand, it is clearly seen that the earlier document was also registered with the very same Sub Registrar and after computerization and digitization, the document is available online for the Sub Registrar to peruse. He can always take an undertaking or a declaration in the form of a sworn affidavit from the vendors to the effect that the original document is with their siblings and register the document. Conduct of an enquiry of the nature that is recommended under Clause (f), extracted supra, would only lead to confusion. If the other legal heirs want to claim exclusive title, it is always open to them to approach the competent Civil Court and if they are able to establish their exclusive right before the Civil Court, the alienation will be invalid. In such circumstances, when the substantive law takes care of and protects any misuse or abuse, we do not think that Rule 55-A of the Registration Rules is the only method by which fraudulent transactions are prevented.

14. In the light of the above, we do not think that insistence on production of original document, in all cases across the Board, could be sustained. Wherever the vendor is a co-owner and it is claimed that the original document is in



the hands of the other co-owners, who are reluctant to part with it, the Registrar can always take a declaration in the form of a sworn affidavit from the co-owner, who is the executant and register the document. If the other siblings dispute the rights of the executant, they can also do so before the Civil Court and there is no law that authorizes the Registrar to conduct a trial to decide title to the property in question. What is sought to be done in the garb of an enquiry is exactly that. We are, therefore, convinced that the order of the Writ Court as well as the check slip issued by the Sub Registrar cannot be sustained.”

Respectfully applying the same, I quash the impugned refusal check slip. the petitioner is permitted to re-present the document. The registering authority shall register the document after getting sworn affidavit from the petitioner that the original document is in the hands of her daughter in law Meenakshi W/o.Ganapathi and on production of the certified copy of the said document. Of course, the other formalities will have to be complied with by the petitioner.

3.This writ petition is allowed. No costs. Connected miscellaneous petitions are closed.

09.07.2024

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G.R.SWAMINATHAN, J.

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