



W.P.(MD)No.18624 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 25.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.18624 of 2023
and W.M.P.(MD)Nos.15469 & 15470 of 2023

Nallasivan

... Petitioner

Vs.

1.The District Registrar,
Cheranmahadevi Registration Office,
Cheranmahadevi,
Tirunelveli District

2.The Sub Registrar,
Joint 1, Sub Registration Office,
Cheranmahadevi,
Tirunelveli District.

3.The Inspector of Police,
Cheranmahadevi Police Station,
Cheranmahadevi,
Tirunelveli District.

.... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari to call for the impugned order Refusal No. RFL/1-Joint Sub Registration office Cheramahadevi/7/2022 passed by the 2nd respondent dated 18.08.2022 and to quash the same as illegal and further direct the 2nd respondent to register sale deed dated 18.08.2022 forthwith.



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For Petitioner : Mr.A.S.Krishnan
For Respondent : Mr.C.Satheesh,
Govt. Advocate for R1 & R2
MrM.Vaikkam Karunanithi,
Govt. Advocate (Crl. Side) for R3

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorari to call for the impugned order Refusal No. RFL/1-Joint Sub Registration office Cheramahadevi/7/2022 passed by the 2nd respondent dated 18.08.2022 and to quash the same as illegal and further direct the 2nd respondent to register sale deed dated 18.08.2022 forthwith.

2. Heard the learned counsel for the petitioner, the learned Government Advocate appearing for the respondents 1 and 2 and the learned Government Advocate (Crl. Side) appearing for the third respondent and perused the materials available on record.

3. It is the grievance of the Writ Petitioner that when the petitioner presented a sale deed dated 18.08.2022 for registration, the same was refused to be



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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 has misplaced the original document and in this regard, he has lodged a complaint before the third respondent and the same was enquired in C.S.R.No.228 of 2021. However, till date, they have not issued the non-traceable certificate.

5. The 2nd respondent has filed a counter affidavit, wherein it is stated that the petitioner has an appeal remedy against impugned order before the District Registrar or otherwise, registration of the document can be done only if the petitioner brought non-traceable certificate from the 3rd respondent.

6. 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.

7. Accordingly, this Writ Petition is allowed and the impugned refusal slip issued by the 2nd respondent dated 18.08.2022 stands quashed and the 2nd respondent is directed to register the sale deed dated 18.08.2022 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.

25.09.2024

NCC : Yes/No
Index : Yes/No

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