



W.P.(MD)No.20674 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 20.08.2024

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.20674 of 2022
and WMP(MD)No.14990 of 2022

Sankari

... Petitioner

Vs.

The Sub-Registrar,
Sub Registrar's Office,
Musiri,
Tiruchirappalli District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned refusal check slip in Refusal No.RFL/Musiri/89/2022 dated 22.07.2022 passed by the respondent herein and quash the same as illegal and further direct the respondent herein to register and release the document presented by the petitioner on 22.07.2022 bearing Document No.TP/127092941/2022 for registration without insisting for the production of original parent document in the light of the order made by this Honble Court in case Vijayandran Vs I.G.



W.P.(MD)No.20674 of 2022

his wife and two children and the petitioner's mother, namely, Thangarathinam as his legal heirs. Hence, her mother is entitled to 1/4th share of the petitioner's brother's property, which is to say that 1/8th share in the petitioner's father's property will devolve upon her mother Thangarathinam. In such circumstances, when the petitioner's mother presented a settlement deed in favour of the petitioner before the respondent, the same was refused to be registered on the ground that the original parent document has not been produced. Challenging the same, the present Writ Petition has been filed.

4. In the counter, it is stated that a suit in O.S.No.69 of 2017 for partition is pending before the II-Additional District Court, Trichy and pending the same, the petitioner's mother is now tried to settle her share in the undivided property and hence, the same is refused.

5. The learned counsel for the petitioner contended that the petitioner's mother is entitled to 1/5 share after the death of the petitioner's brother. Therefore, she has executed a settlement deed in respect of her share in the undivided property.



W.P.(MD)No.20674 of 2022

WEB COPY

6. As far as the 1/8 share is concerned, admittedly the petitioner's mother is also Clause-1 legal heir of the petitioner's brother. That apart, the petitioner's mother is also entitled to deal with her share. But, the impugned order has been passed only on the ground that the original documents are not produced.

7. The issue in the present case is no longer a *res integra* in view of the earlier order passed by this Court in the case of ***Federal Bank v. Sub Registrar***, reported in **2023 (2) CTC 289** wherein it is 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. In such view of the matter, the impugned



W.P.(MD)No.20674 of 2022

refusal slip has to be set aside.

WEB COPY

8. Accordingly, this Writ Petition is allowed and the impugned refusal slip of the respondent 22.07.2022 stands quashed and the respondent is directed to register the gift deed dated 22.07.2022 presented by the petitioner within a period of fifteen days from the date of receipt of a copy of this Order. No costs. Consequently, connected miscellaneous petition is closed.

20.08.2024

NCC : Yes / No
Index : Yes / No
PJM

To

The Sub-Registrar,
Sub Registrar's Office,
Musiri,
Tiruchirappalli District.



WEB COPY



W.P.(MD)No.20674 of 2022

N.SATHISH KUMAR, J.

PJL

W.P.(MD)No.20674 of 2022

20.08.2024