



W.P(MD)No.21573 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD)No.21573 of 2024

Nagaselvam

... Petitioner

Vs.

1.The District Collector,
Madurai, Madurai District.

2.The Sub Registrar,
Madurai South, Madurai District.

... 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 proceedings of the 2nd respondent made in RFL/1 No.Joint Sub Registrar Office, Madurai South/31/2024, dated 19.08.2024 and quash the same and consequently, to direct the 2nd respondent to register the Gift Settlement dated 27.03.2024 in respect of property comprised in Block No. 4, T.S.No.609, Door No.22, 23, measuring 732 sq.ft Anupanadi Village, Madurai District.

For Petitioner : Mr.V.Chandrapandi

For Respondents : Mr.C.Satheesh,

Government Advocate



W.P(MD)No.21573 of 2024

ORDER

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Challenge has been made to the refusal check slip issued by the 2nd respondent dated 19.08.2024.

2. According to the petitioner, his brothers and sisters executed a gift settlement deed in favour of the petitioner in respect of Block No.4, T.S.No. 609, Door Nos.22, 23 measuring 732 sq.ft, situated at Anupanadi Village, Madurai District, which is ancestral property. When he presented the same for registration, it was refused by the 2nd respondent, vide refusal check slip dated 19.08.2024 on the ground that original document has not been produced. Therefore, challenging the same, the petitioner has filed this Writ Petition.

3. 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



W.P(MD)No.21573 of 2024

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."

4.In such view of the matter, the refusal made by the 2nd respondent on the ground that original document has not been produced, cannot be sustained in the eye of law. Therefore, the same is liable to be quashed, accordingly, it is quashed. This Writ Petition is allowed with a direction to the 2nd 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. No costs.

11.09.2024

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

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W.P(MD)No.21573 of 2024

N.SATHISH KUMAR, J

Yuva

To

- 1.The District Collector,
Madurai, Madurai District.
- 2.The Sub Registrar,
Madurai South, Madurai District.

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