



W.A.(MD)No.346 of 2016

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2024

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN**

**W.A.(MD)No.346 of 2016
and
C.M.P.(MD)No.2140 of 2016**

1.The Inspector General of Registration,
Nungambakkam,
Chennai.

2.The Sub Registrar,
O/o. the Sub Registrar,
Vellipattinam,
Ramanathapuram District.

... Appellants

vs.

V.Prabu

... Respondent

PRAYER : Writ Appeal filed under Clause 15 of the Letters of Patent, against the order dated 04.01.2016, in W.P.(MD)No.23102 of 2015.

For Appellants : Mr.S.Shanmugavel
Additional Government Pleader

For Respondent : Mr.K.Seemaraj



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JUDGMENT

**DR.G.JAYACHANDRAN, J.
and
C.KUMARAPPAN, J.**

This appeal is preferred by the State being aggrieved by the order passed by the learned Judge in W.P.(MD)No.23102 of 2015, dated 04.01.2016.

2. The short point involved in this appeal is that when one Paulraj presented the sale deed executed by one Prabu, who is the respondent/writ petitioner, the same was not entertained by the Sub Registrar on the ground that the Executant has not traced title to alienate the property and sought for some more documents to substantiate the title. Instead of producing the document to substantiate the title and his right to alienate the property, respondent/writ petitioner has approached this Court by filing the Writ Petition, seeking Certiorarified Mandamus, to quash the impugned order dated 17.11.2015, passed by the Sub Registrar, Vellipattinam, Ramanathapuram District and direct him to register the sale deed presented by the said Paulraj.



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3. This Court, after considering the legal position and facts, has allowed the Writ Petition stating that there is no justification in returning the document on the ground that the respondent/writ petitioner has to present the document sought to be registered along with supporting documents showing his title. Being aggrieved, the State has preferred the present appeal stating that demand of supporting documents as proof of title of the vendor is neither illegal nor against the public policy and it is in tune with the provisions of the Registration Act and also in tune with the Circular issued by the Inspector General of Registration. When there is a suspicion regarding the title traced by the vendor to alienate the property, necessary care to be taken by the Sub Registrar to avoid creation of title documents illegally and fabricated information. Therefore, there is a specific standing instruction from the Government that the Registering Authority to verify the documents produced at the time of registration. Rule 55 of the Registration Rules, does not empower to test the title, but a cursory examination of the title never been prohibited or prevented.

4. In the present case, the vendor claims to have derived title through a Will and the said Will neither registered nor proved in the manner known to law,



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besides there is also objection by the legal representatives of the deceased Mercy and that is the reason why, the Sub Registrar declined to register the document, without supporting document. Hence, the order passed by the learned Judge in W.P.(MD)No.23102 of 2015, is liable to be set aside. Further, the learned Additional Government Pleader also submitted that subsequent to this, a statutory amendment itself has been brought under Rule 55-A of the Registration Rules, wherein the spirit of the Circular issued by the Inspector General of Registration has been incorporated under the Statute empowering the registering authority before whom the document relating to immovable property is presented for registration, to seek for the parental deed, by which, the Executant acquired right over the subject property. After insertion of Rule 55-A in the Statute, which has come into effect from 05.09.2022, the issue is no more *res integra*.

5. This Court, after giving careful consideration to the submissions made by the learned counsel on either side and the order passed by the learned Judge in the Writ Petition, holds that the registering authority prior to insertion of Rule 55-A of the Registration Rules and subsequent to insertion of Rule 55-A of the Registration Rules, have an inherent power to verify the credential of the



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document presented for transfer of immovable property. The minimum care and alacrity is always required and expected from the registering authority and if a reasonable doubt or suspicion arises about the title of the vendor, he has every right to call for the supporting document and exactly the same has happened in the present case. Therefore, without the production of the supportive document, the respondent/writ petitioner cannot expect the document to be registered and given the seal of validity. Hence, this Writ Appeal is allowed and the order passed by the learned Judge in W.P.(MD)No.23102 of 2015, dated 04.01.2016, is set aside. The dismissal of the Writ Petition shall not stand in the way of the respondent/writ petitioner or his purchaser to establish the title through the Court of law in the manner known to law and seek for registration of the document. No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
NCC : Yes / No
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[G.J., J.] [C.K., J.]
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