



W.P(MD)No.21340 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.21340 of 2024

Saraswathi

... Petitioner

Vs.

1.The Sub Registrar,
Joint-2 Sub Registrar Office,
Sivagangai District.

2.The Inspector of Police,
Sivagangai Town Police Station,
Sivagangai District.

3.Veerapandi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the first respondent to register the document presented by the petitioner in TP/192629638/2024 dated 29.08.2024 for registration without insisting for the production of original parent document in the light of the order made by this Court in Sivanadiyan Vs The Sub Registrar in W.P(MD).No.19745 of 2020 within the period that may be stipulated by this Court.

For Petitioner : Mr.G.Chezhiyan
For Respondents : Mr.M.Siddharthan (for R1)
Additional Government Pleader
Mr.M.Vaikkam Karunanidhi (for R2)
Government Advocate (Crl.side)



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ORDER

This writ petition has been filed seeking for issuance of writ of mandamus directing the first respondent to register the document presented by the petitioner in TP/192629638/2024 dated 29.08.2024 for registration without insisting for the production of original parent document in the light of the order made by this Court in Sivanadiyan Vs The Sub Registrar in W.P(MD).No. 19745 of 2020 within the period that may be stipulated by this Court.

2. Heard Mr.G.Chezhiyan, learned counsel appearing for the petitioner, Mr.M.Siddharthan, learned Additional Government Pleader appearing for the first respondent and Mr.M.Vaikkam Karunanidhi, learned Government Advocate (Crl.side) appearing for the second respondent.

3. The facts of the case are that the property in S.No.37/674 measuring 5226 Sq.ft situated in Ward 11, Natarasankottai Village, Kalaiyaarkovil Taluk, Sivagangai District, belongs to the petitioner's husband, namely, Sankaran, who died on 30.08.1989 and thereafter, the petitioner and her two sons, who are the legal heirs of the deceased Sankaran, has right over the said property. The petitioner intended to release her share in favour of her elder son, namely, Sekar. It is the grievance of the petitioner that when she



presented the document for registration before the registering authority, the same was refused insisting for want of original parent deed. Hence, the petitioner is before this Court seeking direction.

4. The learned counsel for the petitioner would submit that according to the petitioner, the original parent deed is in the illegal custody of other co-owner, namely, Veerapandi/third respondent herein, who is none other than the younger son of the petitioner. Further, he submitted that the original parent documents are not at all necessary to register any document. Hence, he prays for necessary relief.

5. 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 introduced in Rule 162 authorizing the Sub-Registrar to refuse registration for non-production of the original title deed as required



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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.”

In the light of the above settled provision of law, the first respondent cannot insist for production of original parent document.

6. Accordingly, this writ petition is allowed and the first respondent is directed to register the petition mentioned document within a period of seven days from the date of receipt of a copy of this order. No costs.

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NCC : Yes / No
Index : Yes / No
Rmk



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To

1. The Sub Registrar,
Joint-2 Sub Registrar Office,
Sivagangai District.
2. The Inspector of Police,
Sivagangai Town Police Station,
Sivagangai District.



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N.SATHISH KUMAR, J

Rmk

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