



W.P.(MD)No.22274 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 19.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.22274 of 2024

Avudai

... Petitioner

Vs.

The Sub Registrar,
Sub Registrar Office,
Thirumayam, Pudukkottai District.

... Respondent

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 pertaining to the impugned refusal check slip issued by the respondent in Refusal No.RFL/Thirumayam/104/2024 dated 05.09.2024 and quash the same on the ground that the same is arbitrary, illegal and without any legal basis and consequently directing the respondent to register the document presented by the petitioner 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, Pudukkottai in W.P(MD).No.19745 of 2020 dated 11.02.2021 within time frame that may be stipulated by this Court.

For Petitioner : Mr.G.Mathavan

For Respondents : Mr.M.Siddharthan
Additional Government Pleader



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ORDER

Challenge has been made against the refusal check slip issued by the respondent in Refusal No.RFL/Thirumayam/104/2024, dated 05.09.2024, refusing the document submitted by the petitioner on the ground of parent document has not been produced.

2. Heard Mr.G.Mathavan, learned counsel appearing for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader, who takes notice on behalf of the respondent. By consent, this writ petition has been taken up for final disposal at the admission stage itself.

3. The case of the petitioner is that he aged about 90 years and to meet out his medical expenses, he executed a sale deed in favour of one Perumal, on 05.09.2024 and when the document was presented before the respondent for registration, the same was refused on the ground that the parent document has not been produced. It is the contention of the petitioner that due to his old age, he lost the original document.



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4. 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 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.”



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In the light of the above settled provision of law, the impugned refusal slip cannot be sustained in the eye of law.

5. Accordingly, the impugned refusal check slip issued by the respondent in Refusal No.RFL/Thirumayam/104/2024, dated 05.09.2024, is set side and this writ petition is **allowed**. The respondent is directed to register the document presented by the petitioner within a period of seven days from the date of receipt of a copy of this order. No costs.

19.09.2024

Index : Yes / No
NCC : Yes / No
Rmk

To
The Sub Registrar,
Sub Registrar Office,
Thirumayam, Pudukkottai District.



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N.SATHISH KUMAR, J.

Rmk

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