



W.P(MD).No.23276 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 30.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD).No.23276 of 2024

1.M.Manikandan

2.G.Tharmaraja

... Petitioners

Vs.

The Joint Sub Registrar No.1,
(In the Capacity of District Registrar),
Madurai North, Madurai.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned refusal check slip in RFL/Joint Sub-Registrar No.1 Madurai North/142/2024 dated 19-09-2024 and quash the same and consequently direct the respondent to register the Sale Deed dated 19-09-2024 executed by the 1st petitioner in favour of the 2nd petitioner in respect of 76 cents in S.No.49/1, Narasingam 3rd Bit, Kadachanendhal, Madurai East Taluk, Madurai within the time fixed by this Court.

For Petitioners : Mr.H.Arumugam,
For Mr.K.K.Udayakumar

For Respondent : Mr.P.Subbaraj,
Spl. Government Pleader.



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ORDER

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With the consent of both sides, this Writ Petition is taken up for final disposal at the admission stage itself.

2.Challenge has been made to the refusal slip issued by the respondent in RFL/Joint Sub-Registrar No.1 Madurai North/142/2024 dated 19-09-2024 and to direct the respondent to register the document to be executed by the first petitioner.

3.It is the case of the writ petitioner that the first petitioner is the owner of the property. When he executed a sale deed dated 19.09.2024 in favour of second petitioner and when the same was presented for registration before the respondent, the document was refused to be registered on the ground that the original document was not produced. The original document is filed in H.M.G.W.O.P.No.3 of 1997 on the file of the Principal District Court, Madurai. Hence, the petitioner is not in a position to produce the original document.

4.The issue raised in this writ petition is no longer *res integra*. This Court in the case of ***Federal Bank v Sub Registrar***, reported in **2023 (2) CTC 289** has



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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.

5.Considering the above settled position of law, the respondent cannot refuse to register the document merely on the ground of non production of parent document.

6.At this juncture, the learned counsel for the petitioners contended that though the property is agricultural property, the Sub Registrar is not registering the document as if the neighbouring lands have been converted as house site. The Sub Registrar cannot insist that the market value has to be paid only as per the guideline value. If the Sub Registrar has reason to believe that the document has



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been undervalued, then the only option available for the Sub Registrar is to refer the document for determination under Section 47A of the Registration Act after the registering the document. Without resorting to such procedure, he cannot refuse to register the document.

7.In such view of the matter, the impugned refusal check slip is quashed. The respondent is directed to register the sale deed presented by the first petitioner, within a period of one week from the date of receipt of a copy of this order.

8.With the above direction, the writ petition is allowed. No costs.

30.09.2024

NCC : Yes/No
Index : Yes/No
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To:

The Sub-Registrar,
Joint-II Sub-Registrar Office,
Tirunelveli.



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N.SATHISH KUMAR, J.

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