



W.P.(MD)No.23659 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 03.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.23659 of 2024
and
W.M.P(MD).No.20036 of 2024

1.K.Mohamed Sirajudeen
2.K.Abdul Hameed

... Petitioners

Vs.

1.The District Registrar,
Office of the District Registrar,
Registration Department,
Tenkasi District.

2.The Sub Registrar,
Panpozhi Sub Registrar Office,
Shencottai Main Road,
Ponpazhi (PO),
Tenkasi District.

.... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned refusal check slip returned by the second respondent No.RFL/Panpozhi/75/2024 dated 24.09.2024 and quash the same and consequently direct the second respondent to register the partition deed dated



W.P.(MD)No.23659 of 2024

24.09.2024 presented by the petitioners without insisting original parent document.

WEB COPY

For Petitioners : Mr.N.Mohamed Asif
For Respondents : Mr.M.Siddharthan
Additional Government Pleader

ORDER

Challenge has been made against the refusal check slip issued by the second respondent in Refusal No.RFL/Panpozhi/75/2024, dated 24.09.2024, refusing the document submitted by the petitioners on the ground of parent document has not been produced.

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

3. The case of the petitioners is that they purchased the subject property jointly from one Pattan Chettiyar and his legal heirs vide Doc No.628/2000 dated 15.05.2000 and the same was registered by the Sub Registrar, Panpozhi, Tenkasi



W.P.(MD)No.23659 of 2024

District. From the date of purchase, they are in possession and enjoyment of the subject property. Now, the petitioners decided to divide the said property equally and they also prepared partition deed. When the partition deed was presented before the second respondent for registration, the same was refused on the ground that the parent document has not been produced. Aggrieved by the same, the petitioner is before this Court.

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



W.P.(MD)No.23659 of 2024

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 impugned refusal slip cannot be sustained in the eye of law.

5. Accordingly, the impugned refusal check slip issued by the second respondent in Refusal No.RFL/Panpozhi/75/2024 dated 24.09.2024, is set side and this writ petition is **allowed**. The second respondent is directed to register the document presented by the petitioners within a period of seven days from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

03.10.2024

NCC : Yes/No
Index : Yes/No
Rmk



W.P.(MD)No.23659 of 2024

WEB COPY

To

- 1.The District Registrar,
Office of the District Registrar,
Registration Department,
Tenkasi District.

- 2.The Sub Registrar,
Panpozhi Sub Registrar Office,
Shencottai Main Road,
Ponpazhi (PO),
Tenkasi District.



WEB COPY



W.P.(MD)No.23659 of 2024

N.SATHISH KUMAR, J.

Rmk

W.P.(MD)No.23659 of 2024

03.10.2024