



W.P(MD)No.23880 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.10.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD)No.23880 of 2024

and

W.M.P(MD).No.20212 of 2024

R.M.Selvam

... Petitioner

Vs.

1.The District Registrar,
Tuticorin, Tuticorin District.

2.The Sub Registrar,
Kovilpatti Sub Registrar Office,
Tuticorin District.

... Respondents

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 number in RFL/Kovilpatti/109/2024 dated 26.09.2024 on the file of the second respondent and quash the same as illegal and consequently direct the second respondent to register the document for the petitioner's land in S.No.445/3, 445/4 to an Ilayarasanenthal Village, Kovilpatti Taluk, Tuticorin District within the time frame stipulated by this Court.

For Petitioner : Mr.M.Mahaboob Fazil

For Respondents : Mr.C.Satheesh
Government Advocate



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ORDER

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Challenging the impugned refusal check slip in No.RFL/Kovilpatti/109/2024, dated 26.09.2024, issued by the second respondent, this Writ petition has been filed.

2. Heard Mr.M.Mahaboob Fazil, learned counsel appearing for the petitioner and Mr.C.Satheesh, learned Government Advocate , 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 petitioner is that the subject land in S.No.445/3, 445/4 to an Ilayarasanenthall Village, Kovilpatti Taluk, Tuticorin District, belongs to one Sumithra, who had executed a power deed in favour of the petitioner in respect of the subject land. Thereafter, the petitioner executed a sale deed in favour of one Kaleeswari. When the same was presented for registration, the second respondent refused by register on the ground of 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 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.



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N.SATHISH KUMAR, J.

Rmk

5. Accordingly, the impugned refusal number in RFL/Kovilpatti/109/2024 dated 26.09.2024 issued by the second respondent, is set side and this writ petition is **allowed**. The second 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. Consequently, connected Miscellaneous Petition is closed.

04.10.2024

NCC : Yes / No

Index : Yes / No

Rmk

To

1. The District Registrar,
Tuticorin, Tuticorin District.

2. The Sub Registrar,
Kovilpatti Sub Registrar Office,
Tuticorin District.

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