



W.P.(MD)No.24250 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.10.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.24250 of 2024

Aadhavan Raj

... Petitioner

Vs.

The Sub Registrar,
Aruppukottai Sub Registration Office,
Virudhunagar 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 of the respondent in Refusal Check Slip in RFL/Aruppukottai/9/2024 dated 03.10.2024 and quash the same as illegal and arbitrary and in consequence thereof direct the respondent to receive and register the settlement deed dated 03.10.2024 executed in favour of the petitioner without insisting to produce the original parental deed.

For Petitioner : Mr.P.Ganapathi Subramanian
For R1 : Mr.P.Subbaraj
Special Government Pleader

ORDER

Challenge has been made to the refusal check slip issued by the respondent dated 03.10.2024.



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2.Mr.P.Subbaraj, learned Special Government Pleader takes notice for the respondent. By consent of both parties, this writ petition is taken up for final disposal.

3.It is the grievance of the petitioner that the father of the petitioner purchased the subject property by way of a registered sale deed dated 20.02.1981. The entire document with regard to the property is in the custody of the petitioner's father. Due to his old age and health issues, he could not recollect where he stored the original documents in their house. When the petitioner's father executed a settlement deed in favour of the petitioner, the same was refused to be registered on the ground that the original document has not been produced. Therefore, challenging the same, the petitioner has filed this Writ Petition.

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:



“17. Though the Registration Act also give certain powers to the Sub-Registrar to refuse certain document, such refusal is permissible only when the document comes within the ambit of Rule 162 of the Registration Rules. As already indicated above, Rule 55-A is also held as unenforceable since it is without any statutory backing [Federal Bank v. Sub-Registrar reported in 2023 2 CTC 289].

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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.”

5.In such view of the matter, the refusal made by the respondent on the ground that original document has not been produced, cannot be sustained



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in the eye of law. Therefore, the same is liable to be quashed, accordingly, it is quashed. This Writ Petition is allowed with a direction to the respondent to register the document presented by the petitioner, within a period of one week from the date of receipt of a copy of this order. No costs.

17.10.2024

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

The Sub Registrar,
Aruppukottai Sub Registration Office,
Virudhunagar District.



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N.SATHISH KUMAR, J.

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