



W.P.(MD)No.24443 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.24443 of 2024

and

W.M.P.(MD)Nos.20768 and 20769 of 2024

Cyriloose

Vs.

... Petitioner

1.The District Registrar,
The District Registrar Office,
Nagercoil,
Kanyakumari District.

2.The Sub Registrar,
The Sub Register Office,
Karungal,
Kanyakumari 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 on the file of the 1st respondent pertaining to the proceeding No. 3179/A/2024 dated 04.09.2024 and the check slip issued by the 2nd respondent Refusal No.RFL/Karundal/59/2024 dated 03.09.2024 and to quash the same and consequently direct the 2nd respondent to register the sale deed presented by the petitioner on 03.09.2024 within a time frame that may be fixed by this Court.



W.P(MD)No.24443 of 2024

For Petitioner : Mr.S.C.Herold Singh
For Respondents : Mr.P.Subbaraj
Special Government Pleader

ORDER

Challenge has been made to the refusal check slip issued by the second respondent dated 03.09.2024.

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

3.It is the grievance of the petitioner that the petitioner is the owner of the subject property. The petitioner executed a sale deed with regard to that property to one Sahaya Edwin Prabakar and presented the same for registration on 03.09.2024. However, 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***



W.P(MD)No.24443 of 2024

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.”

5.In such view of the matter, the refusal made by the second respondent on the ground that original document has not been produced, cannot be sustained in the eye of law. Therefore, the same is liable to be quashed,



W.P(MD)No.24443 of 2024

accordingly, it is quashed. This Writ Petition is allowed with a direction to the second 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. Consequently, connected miscellaneous petitions are closed.

17.10.2024

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

1.The District Registrar,
The District Registrar Office,
Nagercoil,
Kanyakumari District.

2.The Sub Registrar,
The Sub Register Office,
Karungal,
Kanyakumari District.



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W.P(MD)No.24443 of 2024

N.SATHISH KUMAR, J.

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W.P(MD)No.24443 of 2024

17.10.2024