



WP(MD). No.24657 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 19/10/2024

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The Hon`ble Mr.Justice N.SATHISH KUMAR

WP(MD). No.24657 of 2024

S.Jesuraj

... Petitioner

Vs

The Joint Sub Registrar No.II,
O/o. Sub Registrar,
Sivaganga Town,
Sivaganga.

... Respondent

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 in pursuant to the respondent impugned refusal slip RFL/2 Joint registrar Sivaganga/15/2024 dated 07.10.2024 in respect of petitioners gift deed dated 07.10.2024 and quash the same and consequently direct the respondent to register the petitioners settlement deed in respect of properties in S.No. 313/1A of an extent of 1.08 acres out of 2.16 acres, S.No. 294/4B of an extent of 1.08 acres out of 2.16



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acres and S.No. 298/1 of an extent of 1.26 acres out of 3.07 acres, in sengulam Village, Poovali Group, Mallal Firka, Kalayarkovil Taluk, Sivaganga District within the time stipulated by this Court.

For Petitioner : M/s.D.Senthil
For Respondent : Mr.P.Subbaraj
Special Government Pleader

ORDER

By consent of both sides, the writ petition itself is taken up for final disposal at the stage of admission itself.

2. The writ petition has been filed challenging the order of the respondent dated 07.10.2024 thereby refusing to register the petitioner's gift deed dated 07.10.2024 and consequently direct him to register the petitioner's settlement deed in respect of properties in S.No. 313/1A of an extent of 1.08 acres out of 2.16 acres, S.No. 294/4B of an extent of 1.08 acres out of 2.16 acres and S.No. 298/1 of an extent of 1.26 acres out of 3.07 acres, in sengulam Village, Poovali Group, Mallal Firka, Kalayarkovil Taluk, Sivaganga District within the time stipulated by this Court.



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3. The case of the petitioner is that the subject property was the ancestral property of the petitioner and after the death of his father, the property devolved upon him and revenue records were also mutated in his favour. While so, when he intended to settle the property in favour of his sons and in order to register the said property, he presented the document for registration, the same was refused to be registered by the respondent stating non availability of the original documents. Challenging the same the present Writ Petition.

4. Heard learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

5. It is the contention of the petitioner that the respondents cannot pass such refusal. He further contended that the petitioner presented the certified copy of the originals. Hence, seeks a direction to the respondents to register the settlement deed presented by the petitioner. He would further submit that the respondent is insisting for legal heir certificate and though the revenue records were mutated in his name after



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the death of the petitioner's father, now insisting for legal heir certificate is not sustainable.

6. It is relevant note that 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 and insisting for the legal heir certificate is also not sustainable. In such view of the matter, the impugned refusal slip has to be set aside.



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7. Accordingly, this Writ Petition is allowed and the impugned refusal check slip dated 07.10.2024 is hereby quashed and the respondent is directed to register the document presented by the petitioner within a period of fifteen days from the date of receipt of a copy of this order. No costs.

19.10.2024

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TO

1. The Joint Sub Registrar No.,II
O/o. Sub Registrar,
Sivaganga Town,
Sivaganga.



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N.SATHISH KUMAR,J

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**ORDER
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