



W.P(MD)Nos.26140 & 26177 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.10.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD)Nos.26140 & 26177 of 2024

and

W.M.P.(MD)Nos.22150 & 22172 of 2024

Arjun Krishnakumar

... Petitioner in W.P.(MD)No.26140 of 2024

Arathi Krishnakumar

... Petitioner in W.P.(MD)No.26177 of 2024

Rep. by their Power Agent

Shafeek Shajahan

Vs.

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

2.The Sub Registrar,
Office of the Idaikkal Sub Registrar,
Idaikkal, Tenkasi District.

... Respondents in both W.Ps.

COMMON PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the 2nd respondent herein to register the sale deed dated 17.11.2023 executed by the petitioners in respect of the land admeasuring to an extent of 10 Acres and 55.80 cents out of 31 acres and 67.5 cents in Survey No.184, Achanpudur Village, Tenkasi District without insisting on the production of the original parent title deed in the light of the order of this Court dated 08.02.2023 in



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W.P.No.2758 of 2023 (The Federal Bank Limited Vs. The Sub Registrar, Pollachi and others) by considering the petitioners' representations dated 05.10.2024.

For Petitioner : Mr.Prem Ayyathurai,
for M/s.Ajmal Associates
For Respondents : Mr.C.Satheesh,
Government Advocate
(in both W.Ps.)

COMMON ORDER

Since the issue involved in these Writ Petitions and the property in question are one and the same, with the consent of both parties, these Writ Petitions are taken up for final disposal at the stage of admission itself.

2.It is the grievance of the petitioners that the land in Survey No.184, to an extent of 31 acres and 67.5 cents situated at Achanpudur Village, Tenkasi District was purchased by their father, namely, Krishnakumar. He died leaving behind the petitioners and their mother as legal heirs. Therefore, they are entitled to 1/3rd equal share in respect of the property in question. While being so, the petitioners decided to sell their shares in favour of JSB Real Estate India Private Limited and executed sale deeds dated 17.11.2023. When they presented the sale deeds for registration, the same was refused on the ground



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that original document has not been produced. Challenging the same, the petitioners filed W.P.(MD)Nos.29374 & 29676 of 2023, wherein this Court, vide order dated 12.12.2023, directed the petitioners to resubmit the sale deeds and directed the authorities concerned to conduct an enquiry and pass appropriate orders. This Court also observed that when the petitioners want to sell their 1/3rd undivided share in the land in question, there need not be any impediment for registering the document. Therefore, the petitioners resubmitted the sale deeds for registration and thereafter, the 1st respondent called upon the petitioners and their mother for enquiry. Pursuant to which, they also appeared before the 1st respondent. However, till date, no order has been passed by the 1st respondent. Therefore, the petitioners have filed these Writ Petitions.

3.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.”

4.In such view of the matter, this Court is of the view that there is no bar under the law to sell the undivided share. Therefore, these Writ Petitions are allowed with a direction to the 2nd respondent to register the document presented by the petitioners, 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.

30.10.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To

- 1.The District Registrar,
Office of the District Registrar,
Tenkasi, Tenkasi District.
- 2.The Sub Registrar,
Office of the Idaikkal Sub Registrar,
Idaikkal, Tenkasi District.



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N.SATHISH KUMAR, J

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