



W.P.(MD)No.26034 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.10.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.26034 of 2024

Karuppasamy

... Petitioner

Vs.

1.The District Registrar,
District Registrar Office,
Tirunelveli.

2.The Sub Registrar,
Sub Registrar Office,
Gangaikondan,
Tirunelveli 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 relating to the impugned refusal check slip in Refusal Number RFL/Gangaikonadan/91/2024 dated 21.10.2024 passed by the second respondent and quash the same as illegal and consequently direct the second respondent to register the partition deed of the petitioner in temporary file Number TP/198250498/2024 dated 21.10.2024 within a period that may be stipulated by this Court.



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W.P(MD)No.26034 of 2024

For Petitioner : Mr.J.Arul Prakash
For Respondents : Mr.C.Satheesh
Government Advocate

ORDER

Challenge has been made to the refusal check slip issued by the second respondent dated 21.10.2024.

2.Mr.C.Satheesh, learned Government Advocate, 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 subject property is the ancestral property of the petitioner. The family members of the petitioner have entered into a partition deed with respect to that property. When the petitioner presented the said partition deed for registration, the same was refused to be registered on the ground that the original parent 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:

“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.26034 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.

30.10.2024

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

- 1.The District Registrar,
District Registrar Office,
Tirunelveli.
- 2.The Sub Registrar,
Sub Registrar Office,
Gangaikondan,
Tirunelveli District.



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W.P(MD)No.26034 of 2024

N.SATHISH KUMAR, J.

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W.P(MD)No.26034 of 2024

30.10.2024