



W.P.(MD)No.25984 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **29.10.2024**

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.25984 of 2024

Azhagar Sami

... Petitioner

Vs.

The Sub Registrar,
Joint 2 Sub Registrar Officer,
Virudhunagar, Virudhunagar District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondent to register the redemption of mortgage deed dated 22.10.2024 submitted by the petitioner without insisting of original parent document.

For Petitioner : Mr.R.Rajeshkumar

For Respondent : Mr.M.Siddharthan
Additional Government Pleader

ORDER

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



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2. The case of the petitioner is that he mortgaged the property in question to one Dhamodharan for availing loan of Rs.10,000/- and the said mortgage deed was registered vide Doc No.1295/1994. Now, the mortgage has been discharged. In this regard, when the petitioner presented the receipt for registration, the same has not been received by the respondent insisting the original mortgage deed. Hence, seeks direction.

3. At the outset, this Court is of the view that when the mortgagor and mortgagee are present and receipt has also been produced, it is the duty of the registering authority to register such document as per law. That apart, 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,



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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 view of the above, this Writ Petition is **allowed** and the respondent is directed to register the redemption of mortgage deed presented by the petitioner within a week from the date of receipt of a copy of this order, without insisting the original mortgage deed. No costs.

29.10.2024

Index : Yes / No

NCC : Yes / No

Rmk



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N.SATHISH KUMAR, J.

Rmk

To

The Sub Registrar,
Joint 2 Sub Registrar Officer,
Virudhunagar, Virudhunagar District.

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