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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.10.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD)No.26106 of 2024

Ganapathi Subramanian ... Petitioner

Vs.

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 028.

2.The Sub Registrar,
Sub Registrar Office,
Mukkoodal, 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 RFL/Mukoodal/14/2024, dated 16.04.2024 on the file of the 2nd respondent and quash the same as illegal and consequently, to direct the 2nd respondent to register the settlement deed dated 15.04.2024 executed by the father of the petitioner in favour of the petitioner.

For Petitioner : Mr.S.S.Thesigan
For Respondents : Mr.M.Siddharthan,
Additional Government Pleader

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ORDER

By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

2.Challenge has been made to the refusal check slip issued by the 2nd respondent dated 16.04.2024.

3.It is the grievance of the petitioner that when he presented the settlement deed dated 15.04.2024, which is executed in his favour by his father, it was refused by the 2nd respondent, vide refusal check slip dated 16.04.2024, on the ground that original document has not been produced. 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*

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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 2nd 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, accordingly, it is quashed. This Writ Petition is allowed with a direction to the 2nd 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.

29.10.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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N.SATHISH KUMAR, J

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To

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 028.

2.The Sub Registrar,
Sub Registrar Office,
Mukkoodal, Tirunelveli District.

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