



W.P(MD)No.26243 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)No.26243 of 2024

and

W.M.P.(MD)No.22244 of 2024

Samuel

... Petitioner

Vs.

The Sub Registrar,
Kottaram, Kanniyakumari District.

... 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 relating to the impugned refusal Check Slip in Refusal No. RFL/Kottaram/111/2024 dated 25.07.2024 passed by the respondent and to quash the same as illegal and arbitrary and consequently, to direct the respondent to register the document presented by the petitioner for registration without insisting for the production of the original parent document within the time limit that may be stipulated by this Court.

For Petitioner : Mr.P.Arulsiva

For Respondent : Mr.P.Subbaraj,
Special Government Pleader



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ORDER

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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 respondent dated 25.07.2024.

3.It is the grievance of the petitioner that when he presented the settlement deed dated 25.07.2024, which is executed by him in favour of his son, namely, Jestin Rajakumar, it was refused by the respondent, vide refusal check slip dated 25.07.2024 on the ground that original 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



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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 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 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. Consequently, connected miscellaneous petition is closed.

30.10.2024

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

Yuva

To
The Sub Registrar,
Kottaram,
Kanniyakumari District.

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