



W.P.(MD)No.27597 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 17.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.27597 of 2023
and WMP(MD) Nos.23698 & 23699 of 2023

P.Vaikundaraj

... Petitioner

Vs

1. The Inspector General of Registration,
Santhome High Road,
Chennai.

2. The District Registrar,
Department of Registration,
Tirunelveli,
Tirunelveli District.

3. The Sub Registrar,
Department of Registration,
Panagudi,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the impugned order of refusal check slip under reference of RFL/PANAGUDI/69/2023 dated 02.11.2023 as passed by the 3rd respondent in pursuance of the circular dated 02.02.2023 under reference 22482 C1 2023 by the



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1st respondent and set aside the same as illegal and erroneous and consequently direct the 3rd respondent to register the sale deed in favour of the petitioner dated 02.11.2023 in relation to the property bearing Ayan Punja Survey No. 1128/1J measuring to an extend of 15 cents and Survey No. 1128/1L in which 14 cents and survey No. 1128/2A3 measuring 10 cents into 39 cents equivalent to 0.1580 hectares situated at Levenjipuram Village, Radhapuram Taluk, Tirunelveli District forthwith.

For Petitioner : Mr. S.Palanivelayutham
For Respondents : Mr.P.Subbaraj
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned order of refusal check slip under reference of RFL/PANAGUDI/69/2023, dated 02.11.2023 as passed by the 3rd respondent in pursuance of the circular, dated 02.02.2023 under reference 22482 C1 2023 by the 1st respondent and consequently direct the 3rd respondent to register the sale deed in favour of the petitioner, dated 02.11.2023.

2.Heard learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents and perused the materials available on record.



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3. The case of the petitioner is that the petitioner has purchased the subject property from one Mrs.Velambikai and on 02.11.2023, when the sale deed was presented the registration, the same was refused to be registered on the ground that original parent document has not been produced. Challenging the same, the present Writ Petition has been filed.

5. It is the contention of the petitioner that the subject property is a joint family property and the same was partitioned between the co-sharers. The petitioner's vendor is also one of the co-sharer. Hence, she could not have the original parent deed, however, she has xerox copies for the same.

6. It is relevant note that 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



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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. In such view of the matter, the impugned refusal slip has to be set aside.

7. Accordingly, this Writ Petition is allowed and the impugned refusal slip of the third respondent refusal check slip in RFL/PANAGUDI/69/2023, dated 02.11.2023 is set aside and the third respondent is directed to register the sale deed dated 02.11.2023 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.

17.10.2024

NCC : Yes/No
Index : Yes/No
PNM



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N.SATHISH KUMAR, J.

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