



W.P (MD).No.68 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.01.2025

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THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P (MD).No.68 of 2025

and

W.M.P(MD)No.54 of 2025

Jose

... Petitioner

Vs.

The Sub-Registrar,
(Document Registration Department)
No.I, Joint Sub-Registrar Office,
Thoothukudi District.

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the impuged Receipt No.6872/2024 in Doc.No.P/No.I Joint Sub-Registrar Thoothukudi/65/2024 dated 20.12.2024 passed by the respondent and quash the same and consequently direct the respondent to release the sale deed presented by the petitioner dated 20.12.2024.

For Petitioner : Mr.K.Suyambulingabharathi

For Respondent : Mr.S.P.Maharajan
Special Government Pleader



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ORDER

This writ petition has been filed challenging the receipt issued by the respondent, dated 20.12.2024 thereby inform the petitioner that the document which was presented for registration is pending and after enquiry on the objection raised by the counter party, it will be released.

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

3. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

4.The petitioner is the power of attorney of one Selvamani, W/o.Michel. The property, comprised in S.No.28/2 and sub-division No. 28/2A1 to an extent of 11.01 cents situated at Sankaraperi Village, Polpettai, Thoothukudi Municipality, owned by the principal of the petitioner. The petitioner was given power to deal with the property by the power of attorney deed, dated 26.09.2023 vide document No.4149/2023. Accordingly, the petitioner had executed a sale deed in favour of one Lawrance to an extent of



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5.51 cents out of 11.01 cents and presented for registration. While being so, one another Selvamani raised an objection before the respondent alleging that the subject property owned by her and the original document was lost and as such, lodged a complaint and obtained the Non-Traceable Certificate from the Inspector of Police, Central Police Station, Thoothukudi. She further alleged that she was impersonated by the petitioner's principal and had executed the power of attorney in favour of the petitioner. If it is so, the objector, viz., the Selvamani would have lodge a complaint before the jurisdictional police station. So far, no complaint has been lodged as against the petitioner or his principal.

5. That apart, the petitioner have the original parent document vide document No.38/1985, dated 17.01.1985 in respect of the subject property. It is not for the registering authority to verify as to whether the vendor in the sale deed has a right to convey the subject property. Therefore, the respondent has no power to retain the document on the ground that another person raised an objections. However, on receipt of the objections, the respondent issued notice to the petitioner and the counter party to conduct an enquiry on 24.12.2024, thereby, call upon them to appear for enquiry within a period of one week. Further, the respondent also called for report from the Inspector of Police,



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Central Police Station, Thoothukudi in respect of the non-traceable certificate produced by the counter party. The Inspector of Police, Central Police Station by its report, dated 18.12.2024 stated that no action can be taken in pursuant to the non-traceable certificate issued in favour of the counter party since the principal of the petitioner herein is the original owner of the property and the original parent document was already handed over to the petitioner, who is being the power of attorney. Further, if the property does not belong to the vendor who executed the sale deed and it belongs to someone else, the real owner may file a suit, before the appropriate Court, to set aside the document. Further by any deed of conveyance executed by a person who had no right over the property that is conveyed, no right is conveyed. In such cases, the purchaser takes the risk of losing his money. But on that ground the registering authority or the Collector cannot refuse to return the document registered and cannot retain the document forever. Therefore, the action of the respondent in refusing to release the document on the ground that the sale deed executed by the person, who was not the real owner, is not legally sustainable. It is not for the registering authority to verify as to whether the vendor in the sale deed has a right to convey the property mentioned therein.



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6. In view of the above, this Court finds infirmity in the order passed by the respondent, dated 20.12.2024 and it cannot be sustained and liable to be quashed.

7. Accordingly, the order of the respondent dated 20.12.2024 is quashed and the writ petition is allowed. The respondent is directed to register the sale deed, which was presented for registration by the petitioner, forthwith and release the same if it is otherwise in order. No costs. Consequently, connected miscellaneous petition is closed.

Internet : Yes
Index : Yes/No
Speaking/Non Speaking order
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03.01.2025

To

The Sub-Registrar,
(Document Registration Department)
No.I, Joint Sub-Registrar Office,
Thoothukudi District.



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G.K.ILANTHIRAIYAN, J.

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