

**G. Jothi and Others Vs. The Inspector General of Registration**

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**Court :** Chennai

**Decided On :** Feb-22-2016

**Judge :** R. Subbiah

**Appeal No. :** W.P.No. 6200 of 2016

**Appellant :** G. Jothi and Others

**Respondent :** The Inspector General of Registration

**Judgement :**

(Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus to call for the records relating to the Check Slip No.3/2015 dated 02.11.2015 issued by the second respondent and quash the same and direct the second respondent to register two sale deeds executed by me in favour of Mr.K.Selvaraj and Mr.K.K.Selvaraj without insisting original sale deed No.757 of 1962 dated 25.03.1962 in view of para (c) of the circular No.18339/C1/2012 dated 25.04.2012.)

1. With the consent of both sides, the Writ Petition is taken up for final disposal.
2. The petitioner has come up with the present writ petition for issuance of writ of certiorarified mandamus to call for the records relating to the Check Slip No.3/2015 dated 02.11.2015 issued by the second respondent and to quash the same and direct the second respondent to register two sale deeds executed by the petitioner in favour of Mr.K.Selvaraj and Mr.K.K.Selvaraj without insisting original

sale deed No.757 of 1962 dated 25.03.1962 in view of para (c) of the circular No.18339/C1/2012 dated 25.04.2012.

3. The Petitioners viz., G.Jothi, Geetha Kumar and R.Narmada executed a power of attorney in favour of one V.Suresh, who filed this writ petition on behalf of his Principal. The power of attorney was registered on 26.03.2009 vide document No.593 of 2009. The said power of attorney is still in force.

4. One Mr.K.Gopalakrishna Naidu has purchased a larger extent of land measuring an extent of 8.81 acres in Nerkundram Village, Maduravoyal Taluk, Tiruvallur District from one Babu Naidu in document No.757 of 1962 dated 25.03.1962. The said land was developed into house sites by Gopalakrishna Naidu and he died intestate on 15.09.2006 leaving behind the petitioners as his legal heirs. The legal heir certificate issued by Tahsildar, Egmore, Nungambakkam Taluk dated 13.11.2006 show the petitioners are the legal heirs of deceased Gopalakrishna Naidu.

5. Mr.V.Suresh power of attorney holder agreed to sell the vacant land/house site measuring an extent of 1960sq.ft at part and parcel of plot Nos.230, 237 and 238 Krishna Nagar in S.No.284/16 and 252 Nerkundram Village, Maduravoyal Taluk to K.Selvaraj and another vacant land/house site measuring an extent of 1452 plot Nos.237 part and 238 part comprised in S.No.248/16 Nerkundram village, Maduravoyal Taluk to one K.K.Selvaraj which belong to the petitioners. The sale consideration from the purchasers have also been received by the petitioners.

6. On 19.10.2015, two sale deeds were executed in favour of the said two purchasers viz., K.Selvaraj and K.K.Selvaraj are presented for registration, by paying necessary stamp duty and registration fees. The power of attorney holder on the date of registration i.e, on 19.10.2015, lost the original parent document from his custody and submitted certified copy of the same for registration and did not able to produce the original parent deed at the time of presentation of sale deeds. The second respondent passed the impugned order dated 02.11.2015 in Check Slip.No.3/2015, stating that it is the duty of the second respondent to verify the parent document at the time of registration and returned the sale deeds citing the circular No.18339/C1/2012 dated 25.04.2012. Aggrieved over the same, the

present writ has been filed by the petitioner.

7. The learned counsel for the petitioner submitted that the petitioners intends to sell the property to two different purchasers, since the original parent document No.757 of 1962 was lost, the petitioners are not in a position to produce the original sale deed and hence the second respondent passed the impugned order. Further, the learned counsel for the petitioner submitted with regard to loss of original parent document, police complaint was given on 05.11.2015 to trace the original document and paper publication was also effected on 05.11.2015. Now, the petitioners preferred to produce the certified copy of the document No.757 of 1962, along with paper publication and police complaint copy to the respondent.

8. In this regard, the petitioner has also invited the attention of this Court to Circular dated 25.04.2012 issued by the first respondent. Clause (c) of the circular reads as follows :

(C) In case the previous original document is lost, the party shall produce certified copy of the document, copy of complaints recorded in police station and copy of advertisement published in local dailies regarding loss of documents. In such case, the party has to produce patta/property tax receipt in original. ?

9. Thus by relying upon the above said clause, the petitioners are ready to produce the certified copy of the parent document, complaint copy and the paper publication effected regarding the loss of document and also other necessary documents to the respondents and thus appealed to this Court to quash the impugned order passed by the second respondent and direct the respondents to accept the sale deeds presented by the petitioners.

10. The learned Special Government Pleader submitted that the rejection order is passed only to produce the original parent document.

11. Heard the submissions of learned counsel appearing for the petitioner and the learned Special Government Pleader who accepts notice on behalf of the respondents.

12. Considering the facts and circumstances and also taking note of the submission made by the counsel for the petitioner that the petitioners are ready to produce certified copy of document No.757 of 1962 and other necessary documents to its record, this Court is of the opinion that it is proper and fit case to set aside the impugned order dated 02.11.2015 and remit back the matter to the second respondent. Accordingly, the impugned order is set aside and the petitioner is permitted to produce the certified copy of document No.757 of 1962 and copy of the complaint dated 05.11.2015 and paper publication effected on 05.11.2014, by the power of Attorney/V.Suresh, for loss of original document, non traceable certificate issued by the police authority dated 22.12.2015 along with necessary documents before the second respondent. On receipt of the same, the second respondent is directed to pass appropriate orders, with regard to registration of sale deeds within a period of six weeks from the date of receipt of production of documents by the petitioners, by conducting enquiry after affording opportunity of personal hearing to the petitioner as well as to the necessary parties, if any.

13. The writ petition is disposed of accordingly. No costs.

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