



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE M. S. RAMESH

W.P. (MD) No.2964 of 2018

and

W.M.P. (MD) No.3133 of 2018

J.R.Kasirajan

... Petitioner

vs.

The Sub Registrar

Kannivadi

Dindigul District

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records of the respondent relating to the impugned Check Slip dated 09.02.2018 and quash the same and consequently directing the respondent herein to receive and register the Deed of Partition and Family Arrangement dated 09.02.2018 effecting partition between the petitioner and his brother in respect of property measuring an extent of 14 Acres of land comprised in S.No.832/5 (Old S.No.832/1B Part) and 60 cents in Survey No.832/1B5 situated at Pandrimalai Village, Dindigul (West) Taluk, Dindigul District.

For Petitioner : Mr.D.Srinivasaragavan

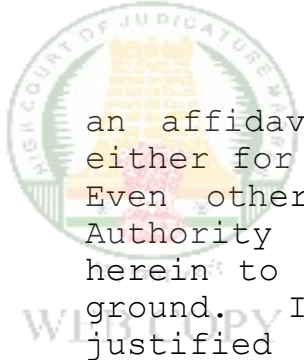
For Respondent : Mr.M.Murugan

Government Advocate

ORDER

The reasoning pointed out in the impugned check slip for refusing to register the petitioner's partition deed, dated 09.02.2018, is that there is an encumbrance over the subject property, after registration of sale agreements vide document Nos.1711 and 1712 of 2012, whereby an advance amount of Rs.2,50,000/- was paid.

2. The powers vested with the Registering Authority under Rule 55 of the Registration Rules do not empower the respondent herein to seek for clearance of the encumbrance created over the subject property. In the instant case, the alleged encumbrance are sale agreements that were entered into between the parties concerned in the year 2012 with three months time for the performance of various clauses contained in the sale agreements. Apparently, the period of the sale agreements has also been lapsed. The petitioner has filed



an affidavit stating that there is no suit pending against him either for specific performance or for refund of sale consideration. Even otherwise, there is no power vested with the Registering Authority under the Registration Rules empowering the respondent herein to refuse registration of the document in question on this ground. In the absence of any such power, the respondent is not justified in refusing registration of the petitioner's partition deed.

3. In the light of the above observations, the writ petition is allowed and the impugned check slip, dated 09.02.2018, issued by the respondent herein is set aside. The respondent is directed to register the partition deed, dated 09.02.2018, presented by the petitioner, if it is otherwise in order and return the same to him forthwith. Such an exercise shall be completed within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar (CS-II)

To:

The Sub Registrar,
Kannivadi,
Dindigul District.

+ 1 CC TO Mr.RATHINA ASHOKAN, ADVOCATE IN SR No. 76719
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 76795

KRK
TE/RP/SAR-2 : 16/08/2018 : 2P/4C

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