



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 26.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD) Nos.7572 and 7573 of 2019

Iruliammal

... Petitioner in both petitions

Vs

The Sub Registrar,
Department of Registration,
Srivilliputhur Post and Taluk,
Virudhunagar District.

... Respondent in both petitions

COMMON PRAYER: Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent relating to the impugned order of refusal of registration of settlement deed dated 13.03.2019 executed by the petitioner in favour of her son Muniyaraj in RFL/Srivilliputhur/14.2019, RFL/Srivilliputhur/15.2019 dated 13.03.2019 respectively and quash the same as illegal and arbitrary and in consequence thereby direct the respondent to register the deed of settlement dated 13.03.2019.

In both petitions

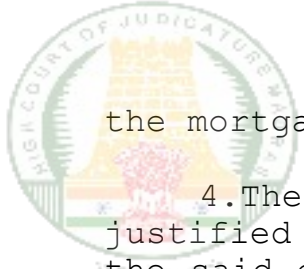
For Petitioner : Mr.P.Ganapathi Subramanian
For Respondent : Mr.M.Murugan
Government Advocate

COMMON ORDER

The property comprised in S.F.No.25/1 in Deiventhiri Village belonged to the writ petitioner's father Ramaiah. Patta stood in his name. He died intestate on 12.03.2006. The writ petitioner was his legal heir. The writ petitioner executed a registered settlement deed dated 13.03.2019 in favour of her son settling 53 and ½ cents in the said land. The petitioner also paid the necessary stamp duty and registration charges. But, the respondent declined to register the same on the ground that there is a subsisting encumbrance in a form of mortgage over the property. A check slip was issued to that effect. The same is challenged in this writ petition.

2.Heard the learned counsel on either side.

3.It is seen that the mortgage was for a sum of Rs.3,500/- and was executed way back on 25.11.1979. The petitioner claims that the mortgage has been redeemed and that is why the original title document is with the writ petitioner. There is nothing on record to indicate that the mortgagee had filed any suit for foreclosing



the mortgage.

4. Therefore, I am of the view that the respondent is not justified in declining to register the document in question citing the said encumbrance. The fact that the writ petitioner is having the original document with her and in view of the mortgage was executed way back on 25.11.1979 and that the mortgagee has not taken any foreclosure proceedings all these years are sufficient to grant relief to the writ petitioner in these proceedings.

5. In this view of the matter, the check slips impugned in these writ petitions are quashed and the respondent is directed to register the petition mentioned documents.

6. These Writ Petitions stand allowed accordingly. No costs.

Sd/-

Assistant Registrar(P & A)

// True Copy //

Sub Assistant Registrar(CS)

rmk

To
The Sub Registrar,
Department of Registration,
Srivilliputhur Post and Taluk,
Virudhunagar District.

+2CC TO MR.P.GANAPATHI SUBRAMANIAN, Advocate Sr. No.63578 & 63577
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 63357

W.P. (MD) Nos. 7572 and 7573 of 2019
26.04.2019

PM(CO)
TR (10.07.2019) 2P 5C