

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.6247 of 2021

S.Elumalai,

S/o. Seenuvasan

... Petitioner

-Vs-

The Sub-Registrar,
Rishivanthiyam Sub-Registrar Office,
Sankarapuram Taluk,
Kallakurichi Dt.

... Respondent

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records and quash the impugned non-speaking order in Refusal No.RFL/ Rishivandhyam/54/2020 dated 04.12.2020 of the respondent as illegal and consequently direct the respondent to register family settlement deed dated 01.12.2020 executed by petitioner in favour of his son Kathiravan in TP.No.97821250/2020 dated 04.12.2020.

For Petitioner : Mr.T.Arunkumar

For Respondent : Mr.T.M.Pappiah,
Special Government Pleader

O R D E R

(This case has been heard through video conference)

This Writ Petition has been filed challenging the order passed by the respondent refusing to register the settlement deed submitted by the petitioner on the ground that in the decree under which he is claiming right, no share has been allotted to him, that apart, no parent document was produced to prove his title.

2. The grievance of the petitioner is that, the petitioner has half share in the schedule property. Earlier, the petitioner's father one Srinivasan claiming exclusive right over the property, filed a suit in O.S.No.963 of 2008 on the file of

District Munsif Court, Kallakurichi, wherein the petitioner was impleaded as 1st defendant. The above suit has been dismissed by the learned judge, by Judgment and decree dated 09.04.2008, wherein the trial court has clearly held that the petitioner, who was arrayed as 1st defendant, has half of share in the suit schedule property. Thereafter, the appeal filed by the petitioner's father in A.S.No.24 of 2008, on the file of Sub-Court, Kallakurichi dated 12.01.2015, was also dismissed. Even though the petitioner has produced all the documents before the Respondent, without considering the same, the respondent refused to register the document on the ground that, he has no right or title over the property.

3. The learned counsel appearing for petitioner would submit that the property is a joint family property, wherein the petitioner has half share. Earlier, the petitioner's father claiming exclusive right over the property, filed a suit, that has been dismissed, and the Trial Court has clearly held that the petitioner has half share in the suit schedule property and the appeal filed by the petitioner's father was also dismissed in the year 2015, and the Judgment and decree passed by the trial court has become final. Without considering the same, the respondent refused to register the document.

4. The learned Special Government Pleader appearing for respondent, on instructions, would submit that, the petitioner failed to produce any document to show his title, hence, the respondent refused to register the document.

5. I have considered rival submissions and perused the records carefully.

6. The only ground on which the respondent has refused to register the document is that, in the judgment and decree passed by the trial court, there is no specific finding that the petitioner has a share in the property. On perusal of judgment and decree passed by the District Munsif Court, Kallakurichi, in para 32, it has been clearly stated that the petitioner is entitled for half share in the property and dismissed the suit filed by the petitioner's father claiming exclusive right over the property. It is a contested decree and it is stated that the appeal filed by his father was also dismissed for default, and so far, it was not restored.

7. Considering all those circumstances, the finding of the trial court clearly shows that the petitioner has half of share in the suit schedule property and the petitioner is only executing settlement deed in respect of his half share, the respondent cannot refuse to register the document on the ground that no share has been allotted to the petitioner. In the said

circumstances, the order passed by the respondent is set aside and the respondent is directed to register the document, if the document is otherwise in order, within a period of twelve weeks from the date of receipt of the copy of this order. Accordingly, this Writ Petition stands allowed. No costs.

Sd/-
Assistant Registrar (L.A)

//True Copy//

Sub Assistant Registrar

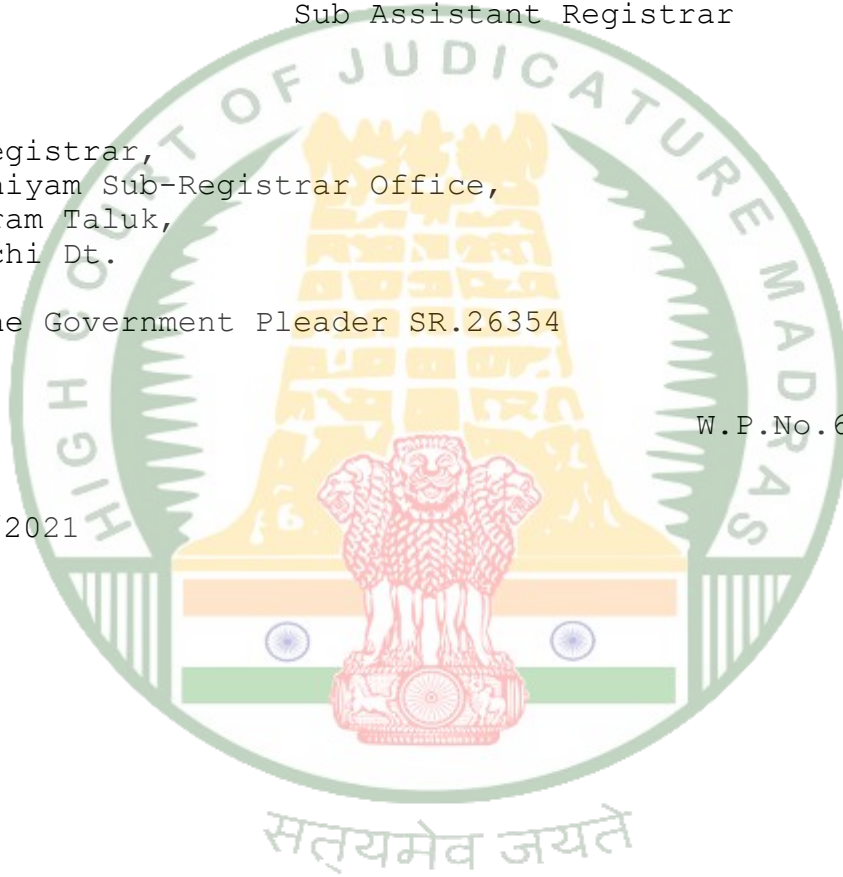
To

The Sub-Registrar,
Rishivanthiyam Sub-Registrar Office,
Sankarapuram Taluk,
Kallakurichi Dt.

+1cc to the Government Pleader SR.26354

W.P.No.6247 of 2021

gmi[co]
srg 05/07/2021



WEB COPY