



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.8107 of 2021

T.S.R.Venkat Ramana

...Petitioner

Vs.

1. The State of Tamil Nadu
rep by its Secretary,
Commercial Taxes and Registration Department,
St.Fort.George, Chennai.
2. The Inspector General of Registration,
Mandhaveli,
Chennai-600 028.
3. The District Registrar,
Tenkasi.
4. No.2 Joint Sub-Registrar, Tenkasi.

... Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the fourth respondent in 'Refusal Check Slip-Refusal No:RFL/No.2 Joint Sub-Registrar, Tenkasi/26/2021' and quash the same and direct him to register the petitioner's settlement deed executed in favour of his children dated 19.03.2021 within a time frame to be fixed by this Court.

For Petitioner : Mr.J.Thomas Raja Durai
For Respondents : Mr.K.Sathiyasingh
Additional Government Pleader

ORDER

On consent given by either side, the main Writ Petition itself is taken up for final disposal.

2. This Writ Petition has been filed challenging the refusal check slip, issued by the fourth respondent, dated 19.03.2021, wherein, the fourth respondent has refused to entertain



the settlement deed executed by the petitioner, dated 19.03.2021.

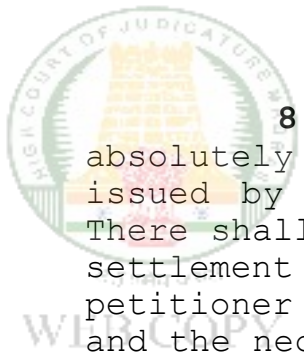
3. The case of the petitioner is that a large extent of property belonged to the family and it was treated as a Hindu Undivided Family (HUF) property. The father of the petitioner died in the year 1999, leaving behind 11 children. Thereafter, there was an oral partition among the family members and what was already partitioned among the family members was reduced into writing by way of a family arrangement / Kaithadibhagam. Thereby, the portion belonging to the petitioner was allotted and the petitioner is in possession and enjoyment of the same.

4. The petitioner executed a settlement deed, dated 19.03.2021 in favour of his children and presented the same for registration before the fourth respondent. The fourth respondent refused to register the document on the ground that the earlier family arrangement / Kaithadibhagam has not been registered. Aggrieved by the same, the present Writ Petition has been filed before this Court.

5. Heard Mr.J.Thomas Raja Durai, learned Counsel appearing on behalf of the petitioner and Mr.K.Sathiyasingh, learned Additional Government Pleader appearing on behalf of the respondents.

6. In the considered view of this Court, the fourth respondent went wrong in finding that the family arrangement, which was reduced into writing as a document, has to be compulsory registered and since this has not been done, the settlement deed that was presented by the petitioner cannot be registered. The facts of the present case is that there was already an oral partition among the family members and the properties were also allotted among the children and subsequently, it was reduced into writing by way of a family arrangement. It is now a settled law that if the family arrangement document merely records the earlier partition that has already taken place, the same does not require any registration. Useful reference can be made to the judgment of this Court in the case of **Vincent Lourdhenathan Dominique and another Vs. Josephine Syla Dominique** reported in 2008 (1) CTC 308 and reference can also be made to the judgment of the Hon'ble Supreme Court in the case of **Ravinder Kaur Grewal and Others Vs. Manjit Kaur and Others** reported in (2020) 6 MLJ 500 .

7. It is also seen that the share that was allotted through the earlier partition to the other legal heirs was dealt with and it was registered on the file of the fourth respondent. Therefore, the fourth respondent cannot now take a different stand, when it comes to registration of the document presented by the petitioner.



8. In view of the above discussion, this Court has absolutely no hesitation to interfere with the refusal check slip issued by the fourth respondent and the same is hereby quashed. There shall be a direction to the fourth respondent to entertain the settlement deed, dated 19.03.2021, presented for registration by the petitioner and register the document, if it is otherwise in order and the necessary stamp duty and registration charges are paid. The document shall be released after the same is registered.

9. This Writ Petition stands allowed with the above directions. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Tsg

To

1.The Secretary,
Commercial Taxes and Registration Department,
St.Fort.George, Chennai.

2.The Inspector General of Registration,
Mandaveli, Chennai-600 028.

3.The District Registrar,
Tenkasi.

4.No.2 Joint Sub-Registrar,
Tenkasi.

+1 CC to M/s.J.THOMAS RAJA DURAI, Advocate (SR-16593[F] dated 20/04/2021)

+1 CC to M/s.SPL GP (SR-16975[F] dated 21/04/2021)



NOTE:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

Order made in
W.P. (MD) .No.8107 of 2021

Dated:

20.04.2021

CN(03.05.2021) 4P 7C