



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.08.2021

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THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

**W.P(MD)No.14273 of 2021
and W.M.P.(MD).No.11208 of 2021**

K.Latha

... Petitioner

Vs.

The Sub Registrar,
Nainarkovil,
Paramakudi Taluk,
Ramanathapuram District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned Refusal Check Slip in No.RFC/Nainarkovil/18/2021, dated 06.08.21, on the file of the Respondent and quash the same and further directing the respondent to accept and register the same property bearing S.No.68/3A, situated at Thavalaikulam Village, Paramakudi Taluk, Ramanathapuram District, measuring 63 cents and comprised in Patta No.391.

For Petitioner : Mr.G.Prabhu Rajadurai
For Respondents : Mr.P.Subbaraj
Counsel for State.

ORDER

The petitioner challenges a Refusal Check Slip dated 06.08.2021 by which the respondent refused to register a sale deed in favour of the petitioner.

2.The petitioner states that the property bearing S.No.68/3A, situated at Thavalaikulam Village, Paramakudi Taluk, Ramanathapuram District, originally belonged to one Sankaran and his brother Sevugan. The patta in respect of the said property stands in the name of the aforesaid persons. On the death of Sankaran and Sevugan, the children of the aforesaid persons entered into an unregistered partition deed so as to divide the property among themselves. Subsequently, on 06.08.2021, the petitioner states that all the legal heirs of the original owners jointly executed a sale deed in favour of the petitioner. Upon the submission of such sale deed for registration, the respondent refused to register the same by issuing the impugned Refusal Check Slip.



3.Mr.P.Subbaraj, learned counsel for the respondent submits that the registration was refused because the document from which the petitioner derived title is an unregistered document. This contention is refuted by learned counsel for the petitioner on the ground that the vendors under the sale deed dated 06.08.2021 derived title to the property in question by succession even *de hors* the unregistered partition deed. Therefore, it is submitted that the impugned order is not sustainable.

4.Upon perusal of the impugned order, it is evident that the only reason cited for refusal to register the sale deed is that the prior document is an unregistered partition deed.

5.The power of the Registration authorities to refuse registration should be traced to the provisions of the Registration Act, 1908 or the Rules framed thereunder. Such Rules do not enable refusal on the ground that the prior document is unregistered. In addition, as correctly contended by the learned counsel for the petitioner, since all the legal heirs of the original owners had jointly executed the sale deed in favour of the petitioner, such parties derived title not only through the unregistered partition deed but also by virtue of succession on account of the death of the original owners.

6.For all these reasons, the impugned order dated 06.08.2021 is not sustainable. Consequently, such order is quashed. As a corollary, the matter is remitted to the respondent for re-consideration of the petitioner's application for registration. The petitioner is permitted to re-submit the document for registration. The petitioner is also permitted to provide any explanation or additional documents in connection with the re-submission of the application for registration. Upon receipt thereof, the respondent is directed to consider such application by taking into account the observations in this order and any additional material placed before the respondent by the petitioner. Upon such consideration, the application for registration shall be disposed of within a period of 30 days from the date of resubmission of the document for registration.

7.W.P.(MD).No.14273 of 2021 is disposed of. Consequently, connected W.M.P.(MD).No.11208 of 2021 is closed. There will be no order as to costs.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TM



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.

To

The Sub Registrar,
Nainarkovil,
Paramakudi Taluk,
Ramanathapuram District.

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-27106[F] dated 24/08/2021)

+1 CC to M/s.GP (SR-27033[F] dated 24/08/2021)

W.P (MD) No.14273 of 2021
23.08.2021

MGJ(01.09.2021) 3P 4C