



W.P.No.26584 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.09.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.26584 of 2022

Kowsalya

.. Petitioner

Versus

1.The District Registrar
Office of the District Registrar
Kallakurichi
Kallakurichi District

2.The Sub Registrar,
Office of the Sub Registrar
Rishivandhiyam
Kallakurichi District

.. Respondents

Prayer:Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ, order or direction in the nature of Writ of Certiorarified Mandamus, calling for the records relating to the impugned Refusal Check Slip in RFL/Rishivandhiyam/57/2022 dated 24.08.2022 issued by the 2nd respondent, quash the same and consequently direct the 2nd respondent to register the Partition Release Deed dated 17.05.2022 executed by the Petitioner in favour of her sister Tmt. Ishwaraya W/o. Selvakumar in respect of her share in the schedule mentioned in the decree dated 27.10.2021 made in O.s. No. 874 of 2009 on the file of the Ld. District Munsif Court Sankarapuram(Doc. No. 2989/2021) and release the same.

For Petitioner : Mr.N.Manokaran
For Respondent : Mr.G.Krishnaraja
Additional Government Pleader

ORDER

<https://www.mhc.tn.gov.in/judis> The present petition has been filed challenging the impugned order



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made in Check Slip RFL/Rishivandhiyam/57/2022 dated 24.08.2022 passed by the second respondent, quash the same and consequently direct the 2nd respondent to register the Partition Release Deed dated 17.05.2022 executed by the Petitioner in favour of her sister Tmt. Ishwaraya, w/o. Selvakumar in respect of her share in the schedule mentioned in the decree dated 27.10.2021 made in O.S.No.874 of 2009 on the file of the Learned District Munsif Court Sankarapuram(Doc. No. 2989/2021) and release the same.

2. According to the petitioner, she is the owner of undivided share in S.F.Nos.9/1, 9/2, 9/7, 11/1, 12/16, 67/1A, 22/5, 30/4, 30/5, 30/6, 30/7, 30/8, 30/9, 30/10, 30/13 of Mandakapadi Village, Sankarapuram Taluk and S.F.Nos.39/6, 44/3 and 51/6 of Seedevi Village, Ulundurpettai Taluk. She along with her sister namely Smt.Iswarya filed O.S.No.874 of 2009 on the file of the learned District Munsif Court, Sankarapuram against 4 other sharers for partition of the properties and to allot the $\frac{1}{2}$ share in the suit item numbers 1 to 15 and $\frac{2}{9}$ th share in suit item numbers 16 to 20. After trial, preliminary decree for partition was granted on 27.10.2021, which was presented before the second respondent for registration and the same was also registered in Doc.No.2989 of 2021 on 30.12.2021, which would also reflect in the Encumbrance Certificate. Thereafter, the petitioner in order to execute a



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release deed in favour of her sister, executed a release deed dated 17.05.2022 and the same was presented before the second respondent. The second respondent, in turn, passed the impugned refusal Check slip on the ground that no other documents in line with the preliminary decree or revenue records have been furnished for registration. Challenging the same, this writ petition.

3. The learned counsel for the petitioner submitted that right and title over the subject property of the petitioner is based on the preliminary decree dated 27.10.2021 made in O.S.No.874 of 2009 passed by the Trial Court, which was presented before the second respondent and the same is also registered as Doc.No.2989 of 2021 on 30.12.2021. Upon which, the petitioner executed a release deed in favour of her sister namely Mrs.Aishwarya and the same is rejected by way of this impugned Order, which is arbitrary and against law.

4. Further, he submitted that with regard to metes and bounds, that will be done only at the time of final decree proceedings. Only after the final decree, the petitioner can approach the revenue authorities for mutation of revenue records. Even otherwise, the preliminary decree confers right and title that is to be conveyed.



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5. The learned Additional Government Pleader fairly submitted that the metes and bounds are not shown in the schedule and further, had no objection with regard to allowing the writ petition.

6. Considering the facts and circumstances of the present case and in view of the consent expressed by the learned Additional Government Pleader in allowing the writ petition, this Court is also of the view that unless there is a restraining order from the competent Civil Court or any restrained order under Sec. 22B of the Act, the Sub Registrar cannot refuse to register the documents. In view of above, this the impugned letter in Check Slip RFL/Rishivandhiyam/57/2022 dated 24.08.2022 passed by the second respondent is quashed and the second respondent is hereby directed to entertain the documents submitted for registration and register the same, if it is otherwise in order. It goes without saying that the necessary stamp duty and registration fee will be paid at the time of submitting the document for registration.

7. Accordingly, this writ petition stands allowed. No costs.

30.09.2022



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Index:Yes/No

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M.DHANDAPANI, J.

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To

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Kallakurichi District

2.The Sub Registrar,
Office of the Sub Registrar
Rishivandhiyam
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