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W.P.No.32226 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2022

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THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.32226 of 2022

G.Niranjani

...Petitioner

Vs.

The Sub Registrar,
Sembiam,
Chennai – 600 011.

...Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the entire records of the impugned order of refusal of registration in RFL/Sembiam/19/2022 dated 18.10.2022 refusing to register the Release Deed dated 18.10.2022 passed by the Respondent Sub Registrar, Sembiam, Chennai District and quash the same consequently direct the respondent to register the Release Deed dated 18.10.2022 presented by the petitioners within a stipulated time period.

For Petitioner : Mr.C.Umashankar

For Respondent : Mr.E.Sundaram,
Government Advocate



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ORDER

The petitioner has filed this Writ petition seeking issuance of a Writ of Certiorarified Mandamus to call for the records of the respondent in respect of the impugned refusal check slip in RFL/Sembiam/19/2022 dated 18.10.2022, quash the same and to consequently direct the respondent to register the Release Deed dated 18.10.2022 presented by the petitioner.

2. Mr.E.Sundaram, learned Government Advocate takes notice for the respondent. In view of the consent expressed by the Learned counsel appearing for either side, this petition is taken up for final disposal.

3. The case of the petitioner is that one A.Kasinathan purchased the property situated at Door No.36, Bhakavathi Ammal Street, Chennai measuring an extent of 1204 Sq. ft from one R.Munusami, vide Document No.3354 of 1968 dated 05.09.1968, pursuant to which, the said A.Kasinathan executed Power of Attorney in respect of the above said property located on southern side to an extent of 760 Sq. ft in favour of one Leela, who is none other than the petitioner's mother, vide Doc.No.81/2001



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dated 18.01.2001. On the strength of the said Power of Attorney, the said

Leela executed a sale deed dated 25.07.2012 bearing Doc.No.2241 of 2012

in respect of the above schedule property in favour of one Gobu, who is none of other than the father of the petitioner, for a valid sale consideration.

Pursuant to the said purchase, the petitioner's father has been exercising his rights of ownership over the subject property till his death and after his demise, the petitioner and other legal heirs of the said Gobu, being the co-owners to the above said property, are in joint possession and enjoyment of the same. While so, the petitioner's mother executed a release deed in respect of her share in the subject property in favour of the petitioner on 30.06.2022 and the same was registered as Doc.No.2763 of 2022. Subsequently, the petitioner's sister namely Niranjana with an intention to release her respective share in the said property in favour of the petitioner, executed a released deed dated 17.10.2022 and when the same was presented for registration, the respondent has refused to register the same, vide Refusal Check Slip bearing RFL/Sembiam/19/2022 dated 18.10.2022, on the ground that, the joint patta in respect of the subject property stands in the name of 33 persons and directed the petitioner to rectify the names of the pattadars and present the same for fresh registration. Challenging the said refusal



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check slip, the petitioner has come up with this Writ petition.

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4. Learned counsel for the petitioner submitted that, the petitioner's father, the said Gobu has purchased the subject property for valid sale consideration. While so, the said Gobu died intestate leaving behind Papammal, Leela, Niranhjani/the petitioner herein, Niranjana and Rangesh Kumar as his legal heirs and each of them are entitled to 1/5th share in the said property. While such being the case, the said Leela / petitioner's mother released her respective share in the said property in favour of the petitioner, similarly, when the petitioner's sister, the said Niranjana with an intention to release her respective share in favour of the petitioner, executed a release deed to that effect and when the same was presented for registration, the respondent has refused to register the same, on the ground that the said Niranjana's name was not there in the joint patta in respect of the subject property. However, it is pertinent to note that, patta is not a title and it is only a possessory title and the same shows the person in possession of the property and it in no way confirms the title of the person, while so, rejecting the document presented merely on the ground that the name of the petitioner's sister is not present in the joint patta in respect of the subject



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property is not sustainable. Hence, he prayed for appropriate orders.

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5. Learned Government Advocate appearing for the respondent fairly submitted that, patta does not confer title, however, he further submitted that, if the petitioner and her sister produces any other document to show that the said Niranjana is one of the co-owner of the subject property and she is entitled to execute a release deed in respect of the subject property in favour of the petitioner, the document/release deed presented by the petitioner's sister will be entertained and appropriate orders will be passed within the time stipulated by this Court.

6. Hear learned counsel on either side and perused the materials available on record.

7. In catena of decisions, this Court as well as the Hon'ble Apex Court has held that patta does not confer title and it establishes possession, which shows the name of the person who is in possession of the respective property. In the present case, the respondent has rejected the release deed executed in favour of the petitioner on the ground that, the executor name is



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not found in the joint patta in respect of the subject property, which is not sustainable. Merely because the patta does not reflect the name of the petitioner's sister will not mean that the petitioner's sister has no title to execute the deed. Further, title cannot be gone into by the registering authorities and only prima facie satisfaction along with necessary documents is relevant for registering a deed. Hence, this Court has no hesitation to interfere with the order impugned in this Writ petition.

8. Accordingly, this Writ petition is allowed, by setting aside the impugned refusal check slip dated 18.10.2022 with a further direction to the respondent to entertain the release deed executed in favour of the petitioner for registration, if there is no other legal impediment to register the same, upon receipt of necessary stamp duty and registration charges and pass appropriate orders within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

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Speaking Order : Yes/ No

Index : Yes/ No

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The Sub Registrar,
Sembiam,
Chennai – 600 011.

M.DHANDAPANI, J.

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