



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD)No.8047 of 2022

and

WMP (MD)No.6027 of 2022

WEB COPY

Meenatchisundaram

... Petitioner

Vs.

1.The Inspector General of Registration,
100, Santhome High Road,
Pattinapakkam, Chennai - 600 028.

2.The District Registrar,
District Registrar Office,
Virudhunagar District,
Virudhunagar.

3.The Sub Registrar,
Sub Registrar Office,
Thiruchuzhi,
Virudhunagar District.

4.A.Vasunathamoppa

5.Vellaipandi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to Impugned Order of Refusal Check Slip - Refusal No. RFL/THIRUCHUZH/24/2022, Dated 06.04.2022, passed by the 3rd Respondent and quash the same and consequently directing the 3rd respondent to register the Petitioner Gift Deed, dated 06.04.2022.

For Petitioner : Mr.R.Murugappan

For Respondents : Mr.S.Shanmugavel for R1 to R3
Additional Government Pleader

O R D E R

This writ petition has been filed challenging the refusal check slip, dated 06.04.2022, issued by the third respondent refusing to register the settlement deed presented by the petitioner for registration on the ground that the petitioner has not obtained no objection certificate for the execution of the said document from the parties to the mortgage deed, registered as document No.2498/2008.

<https://hcservices.ecourts.gov.in/hcservices/>



2. Heard Mr.R.Murugappan, learned counsel appearing for the petitioner and Mr.S.Shanmugavel, learned Additional Government Pleader, who accepts notice on behalf of the respondents 1 to 3.

3. Any document presented subsequent to the registration of a mortgage deed is only subject to the mortgage. There is no prohibition for the respondents to register the settlement deed presented by the petitioner for registration, even though there is existing mortgage over the property by virtue of a mortgage deed registered as document No.2498/2008.

4. A Division Bench of this Court in its decision in the case of **N.Ramayee Vs. The Sub Registrar, Valapady, Salem District and another** in a writ petition in **W.P.(MD)No.674 of 2020**, dated 05.11.2020, had an occasion to consider the similar issue and in para 38 of the said judgment, it has been made clear that insisting a no objection from the mortgagee before registration is against the very substantive provision of law. As observed earlier by this Court, the settlement deed presented by the petitioner for registration is subject to the earlier mortgage in respect of the very same property created under document No.2498 of 2008.

5. Therefore, this Court is of the considered view that by total non application of mind to the settled law that existence of mortgage will not prohibit the Registration Department to register any further document unless there is any restraint order issued by any competent Court / Authorities. The third respondent has passed the impugned order refusing to register the settlement deed presented by the petitioner for registration on the ground that the petitioner will have to obtain no objection from the parties to the mortgage deed registered as document No.2498 of 2008. Hence, the impugned refusal check slip, dated 06.04.2022, issued by the third respondent has to be necessarily quashed and the writ petition will have to be allowed.

6. Accordingly, this writ petition is allowed by directing the third respondent to register the settlement deed, dated 06.04.2022, presented by the petitioner for registration, within a period of two weeks from the date of receipt of a copy of this order, if the said settlement deed is otherwise in order and the petitioner has paid the necessary stamp duty and registration charges. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

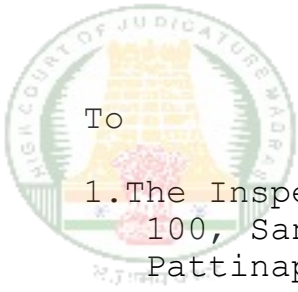
Assistant Registrar (CS I)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

TM



To

1.The Inspector General of Registration,
100, Santhome High Road,
Pattinapakkam, Chennai - 600 028.

2.The District Registrar,
District Registrar Office,
Virudhunagar District,
Virudhunagar.

3.The Sub Registrar,
Sub Registrar Office,
Thiruchuzhi,
Virudhunagar District.

+1 CC to M/s.R. MURUGAPPAN, Advocate (SR-21605[F] dated
27/04/2022)

W.P. (MD)No.8047 of 2022

26.04.2022

MGJ(23.05.2022) 3P 5C