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W.P.(MD)NO.19633 OF 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.12.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.19633 of 2021

S.Vasantha

... Petitioner

Vs.

The Sub Registrar,
No.II, Joint Sub Registrar Office,
Tirunelveli.

... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned refusal slip in RFL/No.2 Joint Sub Registrar, Tirunelveli/43/2021 dated 04.10.2021 and quash the same as illegal and consequently direct the respondent to register the document presented by the petitioner for registration without insisting for the production of original parent document within the time that may be stipulated by this Court.

For Petitioner : Mr.A.Karthik

For Respondent : Mr.S.Shanmugavel,
Additional Government Pleader.

* * *

**ORDER**

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Heard the learned counsel on either side.

2. The property in question was purchased by the petitioner's father way back in the year 1958. The petitioner's father passed away in the year 1970. He died leaving behind seven legal heirs. There was a partition among seven legal heirs in the year 1993. The petitioner now wants to settle what was allotted to her as her share. The settlement deed was executed by the petitioner in favour of her daughter. When it was presented for registration, the registering authority issued the impugned refusal check slip and declined to register the document. Challenging the same, the present writ petition has been filed.

3. It is not necessary that the partition deed should have been registered. The petitioner's counsel states that the original document is with one of her siblings and due to breakdown of relationship, she is not able to produce the same. The learned counsel appearing for the writ petitioner relies on the decision made in ***W.P.(MD)No.19745 of 2020 (Sivanadiyan V. The Sub Registrar, Pudukottai,***



Pudukottai District). Vide order dated **11.02.2021**, it was also held therein that the registering authority ought not to insist on the production of the original title deed.

4. The petitioner is however directed to file an affidavit before the respondent that she is not having the original document and it is with one of her siblings. However, the petitioner has to necessarily produce the death certificate of her father as well as the legal heir certificate. On production of the aforesaid documents, namely, the death certificate of her father and the legal heir certificate and the affidavit as regards the present whereabouts of the original partition deed dated 12.05.1993, the respondent shall entertain the document and also register the same and release it subject to fulfilment of the other usual formalities. The petitioner is also directed to make paper publication indicating that she is not in possession of the original document. This writ petition stands allowed on these terms. No costs.

23.12.2022

Index : Yes / No
Internet : Yes/ No

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To:

The Sub Registrar,
No.II, Joint Sub Registrar Office,
Tirunelveli.



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G.R.SWAMINATHAN,J.

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