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W.P.(MD)NO.27757 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.27757 of 2022

C.Subramani

... Petitioner

Vs.

The Sub Registrar,
Kallimandhayam Sub Registrar Office,
Ottanchathiram Taluk,
Dindigul District.

... Respondent

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned refusal check slip in RFL/ Kallimandayam/38/ 2022, dated 01.09.2022 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

For Petitioner : Mr.G.Sridharan

For Respondent : Mr.N.Satheeskumar,
Additional Government Pleader.

* * *

**ORDER**

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Heard the learned counsel on either side.

2. The writ petitioner claims ownership over half share in Survey Nos.554 and 572 in Odaipatti Village. The lands were jointly purchased by the petitioner and his elder brother Nachimuthu under the registered sale deed vide document No.194 of 2008. The petitioner is enjoying southern portion, while his brother is enjoying northern portion. Now the petitioner wants to sell the undivided half share in the property. When it was presented for registration, the respondent declined to register the document and instead issued the impugned refusal check slip. Challenging the same, the present writ petition has been filed.

3. When the matter was taken up for hearing, my attention was drawn to the order dated **18.11.2021** made in ***W.P.(MD)No.19950 of 2021 (Selvam V. The Joint Sub Registrar No.1 Karaikudi, Sivagangai District)***. A learned Judge of this Court in the aforesaid order held as follows:-



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“ 6.Admittedly, there are disputes in the petitioner's family and it would be highly impossible to get the original copy from a person with whom there is an existing dispute and as stated in the affidavit against whom cases and counter cases have been filed. The respondent under those circumstances, should take a step forward and examine the Will which is available and thereafter, come to a considered conclusion whether the property covered under the settlement deed, could actually be settled by the petitioner. The learned Counsel for the petitioner also placed reliance on similar view taken by learned Single Judge of this Court.

7.I would gladly also uphold the said views and fall in line and take a consistent view as taken by other learned Single Judges and issue a direction to the respondent to register the settlement deed and if at all any subjective satisfaction is to be undertaken then



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the respondent may examine the Will which is available in the office itself and thereafter, come to subjective satisfaction on independent application of mind.

8.The petitioner is directed to represent the settlement deed on or before 03.12.2021, through proper procedure and if it otherwise in order with respect to payment of stamp duty and registration fees, the respondent may register the same and at any rate, complete the process on or before 17.12.2021 in accordance with the rules governing registration.

9.With the above direction, the Writ Petition is allowed. No costs."

4. I am inclined to adopt the very same approach. The petitioner in the sale deed had specifically incorporated a recital indicating that the original documents are with his brother. In this view of the matter, the impugned refusal check slip is quashed. The petitioner is permitted to re-present



the document before the respondent. The respondent shall accept the same and register it subject to fulfilment of the other usual formalities. This writ petition stands allowed. No costs.

15.12.2022

Index : Yes / No
Internet : Yes/ No

PMU

To:

The Sub Registrar,
Kallimandhayam Sub Registrar Office,
Ottanchathiram Taluk,
Dindigul District.



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G.R.SWAMINATHAN,J.

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