



W.P.No.7470 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.7470 of 2023

G.Alagesan

... Petitioner

Vs.

1. The District Registrar,
District Registrar office, Salem, Salem District.

2. The Sub Registrar,
O/o.Sub Registrar,
Magudanchavadi,
Salem District.

3. Sellakannu

4. Govindammal

5. A.Sundarambal

6. Kandasamy

7. Govindaraj

8. Sagadevan

9. M.Saradha

10. K.Santhi

... Respondents



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(R3 to R10 impleaded vide order dated 13.04.2023
made in WMP.10376/2023 in WP.7470/2023 by MSRJ)

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, calling for the records relating to the impugned order made in Refusal Check Slip in RFL / Magudanchavadi / 4 / 2023 dated 21.02.2023 passed by the 2nd respondent, quash the same and consequently, direct the 2nd respondent to register the Final decree dated 23.11.2005 made in I.A. No.685 of 2004 in O.S. No.123 of 2004 passed by the Ld. District Munsif Court, Sankari and release the document.

For Petitioner	: Mr.N.Manoharan
For Respondents	:
(for R1 & R2)	: Mr.G.Krishna Raja Additional Govt.Pleader
(for R3 to R4)	: Mr.D.Magesh
(for R5)	: Mr.R.Marudhachala Murthy
(for R6 to R8)	: No Appearance
(for R9)	: Mr.K.B.Vivekananthan
(for R10)	: Mr.T.Ganesan

ORDER

The Refusal Check Slip dated 21.02.2023 passed by the second respondent is under challenge in the present writ petition.



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2. The petitioner states that a Civil Suit was instituted by the petitioner in O.S.No.830 of 1982 before the Sub Court Salem for partition.

It is not in dispute between the parties that preliminary decree was passed in the partition suit and thereafter final decree also had been passed.

3. The grievances of the writ petitioner is that the final decree presented for registration before the second respondent was returned on the ground that the other co-sharers names are also found in the Encumbrance Register. More so, the co-sharers have dealt with the subject property. However, these all are the disputed facts between the parties and as far as the document sought to be registered by the petitioner is the decree passed by the Civil Court of law, there is no impediment for registering the final decree passed in a partition suit.

4. If at all, any civil dispute exist between the parties, it is for them to approach the Civil Court of law for the purpose of resolving the dispute. As far as the registration of Civil Court decree is concerned, the findings made by the Sub Registrar that the other parties have dealt with the property is irrelevant and cannot be considered as a material factor for the purpose of refusing registration.



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5. The learned counsel for the respondents 3, 4, 5, 9 and 10 made a submission that the other co-sharers have already dealt with the properties. If so, it is for them to redress their grievances in the manner known to law. This being the factum, the second respondent is directed to register the final decree presented by the writ petitioner passed by the Civil Court of law by following the procedures as contemplated. The said exercise is directed to be done within a period of four (4) weeks from the date of receipt of a copy of this order.

6. Accordingly, the impugned order is quashed and the writ petition is **allowed**. No costs.

(sha)
Index : Yes
Speaking Order
Neutral Citation : Yes

31.07.2023



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To

1. The District Registrar,
District Registrar office, Salem, Salem District.

2. The Sub Registrar,
O/o.Sub Registrar,
Magudanchavadi,
Salem District.



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S.M.SUBRAMANIAM. J.,

(sha)

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