



WEB COPY



W.P.No.10971 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.10971 of 2023

Dhanalakshmi

... Petitioner

vs.

The Sub Registrar
Office of Sub Registrar,
Rasipuram.

... Respondent

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, to call for the records relating to the impugned order/ Refusal Check slip dated 30.03.2023 made in RFL/ Rasipuram/ 60/ 2023 issued by the respondent and quash the same and consequently direct the 4th respondent to register Preliminary decree dated 18.10.2012 passed in O.S. No. 105/2010 passed by the Sub Court Rasipuram within the time fixed by this Court.

For Petitioner : Mr.R.Nalliyappan

For Respondent : Mr.D.Ravichander, Spl.G.P.



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ORDER

The refusal check slip dated 30.03.2023, passed by the Sub Registrar is sought to be quashed in the present writ petition.

2.The petitioner presented a preliminary decree for registration. The suit for partition was instituted between the parties and a preliminary decree was passed and consequently the said preliminary decree was presented for registration before the respondent by the writ petitioner. The respondent returned the presented document on the ground that it is a preliminary decree.

3.In a suit for partition, the rights of the parties are crystallized in a preliminary decree. Final decree proceedings are to be instituted for fixing boundaries to give separate possession to the parties based on the preliminary decree passed by the Civil Court. Thus, the preliminary decree confers right to the parties and such a right conferred shall be registered under the provisions of the Registration Act. Therefore, the registering authority cannot refuse registration merely on the ground that it is a preliminary decree which confers civil rights on the parties. Thus, the order impugned is perverse.



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4. Accordingly, the impugned order passed by the respondent in refusal check slip dated 30.03.2023 in RFL/Rasipuram/60/20232 is quashed and the competent respondent is directed to proceed with the registration by following the procedures as contemplated if the presentation is otherwise in accordance in the provisions of the act and rules.

5. With the above directions, the writ petition stands **allowed**.

However, there shall be no order as to costs.

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

03.07.2023
(2/2)

To

The Sub Registrar
Office of Sub Registrar,
Rasipuram.



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S.M.SUBRAMANIAM. J.,

(sha)

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