

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05-06-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.14790 of 2023

S.Ramasamy

... Petitioner

Vs.

1.The District Registrar (Salem West),
No.313, 3rd Floor,
District Registration Office Campus,
Salem Collectorate Building,
Kottai Main Road,
Salem – 636 001.

2.The Sub Registrar,
Magudanchavadi Sub-Registrar Office,
Sankari Taluk,
Salem District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the second respondent SRO, Magudanchavadi, Sankari Taluk, Salem District to accept the Partition Deed dated 15.03.2023 for Registration thereby considering the petitioner's application for pre-registration Token Receipt No.TP/141230363/2023

dated 15.03.2023.

For Petitioner : Mr.N.Vijaya Basker for
M/s.Law Vision

For Respondents : Mr.D.Ravichander,
Special Government Pleader.

ORDER

The relief sought for in the present writ petition is direct the second respondent to accept the Partition Deed presented by the writ petitioner for registration on 15.03.2023.

2. The grievance of the writ petitioner is that the petitioner along with the other coparceners of the Joint Family, excluding the one coparcener, presented the Partition Deed for registration before the second respondent.

3. The respective portion of the property to each coparceners has not been demarcated. More-so, one coparcener has been excluded from the Partition Deed.

4. In view of the ambiguity in demarcating the boundaries of

the subject property and for exclusion of one coparcener, the Sub Registrar refused to register the Partition Deed.

5. The learned counsel for the petitioner made a submission that demarcation of boundaries in the Partition Deed may not be strictly required. More-so the properties were allotted in favour of the excluded coparcener by the family members. Therefore his presence may not be required. Such aspects cannot be considered by the Sub Registrar while scrutinising the documents presented for registration. In the event of possible dispute or ambiguity, the parties are bound to resolve the issues through the Competent Civil Court of Law, excluding the coparcener amounts to infringement of his right whether he has given consent for such exclusion or not to be taken into consideration and therefore, the parties are bound to approach the Competent Civil Court of Law by filing an appropriate partition suit by impleading all the coparceners, who all are entitled for their respective shares in the Joint Family property.

6. This being the factum, the decision taken by the Sub

Registrar regarding the refusal of the documents for registration is in consonance with the principles and the provisions of the Registration Act. Thus the parties are at liberty to work out their remedy in the manner known to law.

7. It is the bounden duty of the Sub Registrar to scrutinise the documents presented for registration with application of mind whether the documents are in consonance with the provisions of the Registration Act and it is properly drafted conveying the rights and liabilities or otherwise, then alone it is to be registered and not otherwise. The Sub Registrars cannot register a document in a mechanical manner and they are bound to scrutinise the same in accordance with law.

8. With the above observations, the writ petition stands dismissed. However, there shall be no order as to costs.

05-06-2023

Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

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To

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S.M.SUBRAMANIAM, J.

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