



W.P.No.17884 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.17884 of 2023

K.K.Mohan Kumar

... Petitioner

Vs.

1.The Sub Registrar,
Surampatti,
Erode.

2.P.Santhamani

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records in refusal number RFL / Surampatti / 28 / 2023 dated 19.05.2023 on the file of the 1st respondent and quash the same and by directing the 1st respondent to register the sale deed in temporary number in TP / 150961443 / 2023.

For Petitioner

: Mr.A.Sundara Vadhanan

For R1

: Mr.G.Krishna Raja
Additional Government Pleader



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ORDER

The refusal check slip issued by the 1st respondent / Sub-Registrar on the ground that a preliminary decree cannot be treated as title documents is under challenge in the present writ petition.

2. The 2nd respondent instituted a Suit in O.S.No.958 of 1995 on the file I Additional Sub Court, Erode for partition. The preliminary decree was passed in the partition suit. The petitioner presented a sale deed for registration based on the purchase made by him in respect of the preliminary decree passed in the partition suit. The Sub-Registrar returned the document on the ground that the preliminary decree cannot be construed as basis for title. Therefore, the petitioner has to submit the final decree.

3. In a Suit for Partition preliminary decree itself confers right of the parties. Final decree is only with reference to demarcation of the subject properties and therefore, the reason stated by the Sub-Registrar that the preliminary decree would not confer right of property is incorrect. In the partition suit preliminary decree confers right to the respective party.



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4. The parties are at liberty to deal with their rights and therefore, there is no impediment for the purpose of purchase of a share of a particular person as per the preliminary decree passed in a partition suit and such a sale deed if any presented, is to be registered without raising any objection and in the document if otherwise in accordance with the procedures.

5. This being the principles to be followed, the order impugned passed by the 1st respondent in refusal number RFL / Surampatti / 28 / 2023 dated 19.05.2023 is quashed and the 1st respondent is directed to proceed with the registration, if the document presented by the writ petitioner is otherwise in accordance with the procedures contemplated under the Act and Rules.

6. With the above direction, this Writ Petition stands allowed. No costs.

05.07.2023

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes



To

The Sub Registrar,
Surampatti,
Erode.

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S.M.SUBRAMANIAM, J.

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