



W.P.No.27262 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 08 .11.2023**

**CORAM**

**THE HON'BLE MR. JUSTICE P.VELMURUGAN**

**W.P.No.27262 of 2023**

V.Kalthotti Thangamuthu

... Petitioner

Vs.

The Sub Registrar,  
Office of the Sub Registrar,  
Sendhamangalam,  
Namakkal (District).

... Respondent

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the Refusal Check slip in refusal number RFL/Senthamangalam/125/2023 dated 07.09.2023 on the file of the respondent and quash the same and consequently direct the respondent to register the sale deed dated 05.09.2023 within the reasonable time.

For Petitioner : Mr.P.Asai Thambi

For Respondent : Mr.Yogesh Kannadasan  
Special Government Pleader



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## **ORDER**

This Writ Petition has been filed to issue Writ of Certiorarified Mandamus calling for the records relating to the Refusal Check slip in refusal number RFL/Senthamangalam/125/2023 dated 07.09.2023 on the file of the respondent and to quash the same and to direct the respondent to register the sale deed dated 05.09.2023.

2. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondent and perused the materials available on record.

3. It is the contention of the learned counsel for the petitioner that the petitioner presented sale deed before the respondent for registration. The respondent issued the refusal check slip for the reason that motgage deed found in the encumbrance to be cleared in view of circular dated No.24011/C1/2020 dated 08.02.2020. It is the further contention of the petitioner that the respondent has no authority to refuse to register the document and even a mortgaged property can be alienated subject to the mortgage.



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4. The first proviso to Rule 55-A(i) of the Registration Rules had been struck down by this Court vide order dated 08.02.2023 in W.P.No.2758 of 2023 [Federal Bank Limited Vs. The Sub Registrar, Pollachi and others] reported in 2023(2) CTC 289. Hence the respondent has no power to insist the petitioner to clear the mortgage deed. Hence, the impugned order passed by the respondent in Refusal Check slip in refusal number RFL/Senthamangalam/125/2023 dated 07.09.2023 is set aside. The respondent is directed to register the document which is presented by the petitioner, if it is otherwise in order, within a period of one month from the date of receipt of a copy of this order.

5. With the abovesaid direction, the Writ Petition is allowed. No costs.

**08.11.2023**

*mfa*

*Index: Yes/No*

*Speaking Order: Yes/No*

*Neutral Citation: Yes/No*



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**P.VELMURUGAN, J.**

*mfa*

**To**

The Sub Registrar,  
Office of the Sub Registrar,  
Sendhamangalam,  
Namakkal (District).

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