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W.P.(MD)NO.3480 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.10.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.3480 of 2022

Mohammed Niyas

... Petitioner

Vs.

1. The Sub Registrar,
Mimisal,
Avudaiyarkoil Taluk,
Pudukottai District.

2. A.Thangapandiyar

3. Nasika Begum

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the first respondent in his proceedings in pending document No.03/2021 dated 26.12.2021 and to quash the same with a consequential direction to register the sale deed within a time frame besides awarding compensation payable by the respondents to the petitioner.

For Petitioner : Mr.N.Balakrishnan

For R-1 : Mr.M.Sidharthan,
Additional Government Pleader.

For R-3 : Mr.D.Ramesh Kumar

For R-2 : No appearance.

* * *

**ORDER**

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Heard both sides.

2. The writ petitioner and the third respondent are siblings. Late Syed Mohammed and Davood Beevi are their parents. Apart from the writ petitioner and the third respondent herein, they had four more children. The petitioner herein filed O.S No.21 of 2013 on the file of the Additional District Judge, Pudukottai seeking the relief of partition. He arrayed his sisters as defendants. The mother figured as the first defendant. During the pendency of the suit, mother passed away. The matter was referred to Lok Adalat. Compromise was arrived at. One of the sisters filed C.R.P.(MD) No.2100 of 2017 before this Court and Lok Adalat award was set aside on 02.01.2019. As a result, the partition suit got revived. It is stated that a review application has been filed and that it is still pending. Be that as it may, as on date the petitioner's rights in the father's property has not been partitioned and divided by metes and bounds. He is only having an undivided share in the property and nothing else.



3. While so, the petitioner chose to execute the sale deed to the extent of 1 acre and 13 cents in consonance with the Lok Adalat award. The registering authority declined to register the same. Instead, the impugned refusal check slip was issued. The same is put to challenge in this writ petition.

4. After hearing the learned counsel on either side, I am more than satisfied that the impugned check slip does not warrant interference. The petitioner can only sell his undivided share in his father's property. Since the petitioner's father died leaving behind six legal heirs (5 daughters and 1 son), the petitioner will be entitled to 2/7 share in the father's property. The registering authority will receive the document and register it subject to fulfilment of the other usual formalities. The order impugned in this writ petition is sustained. This writ petition stands disposed of as mentioned above. No costs.

30.10.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PMU



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G.R.SWAMINATHAN,J.

PMU

To:

The Sub Registrar,
Mimisal,
Avudaiyarkoil Taluk,
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