



W.P(MD)No.6095 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.6095 of 2023

Vanitha

... Petitioner

Vs.

1.The District Registrar,
District Registrar Office,
Tenkasi.

2.The Sub-Registrar,
Kadayanallur,
Tenkasi District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned refusal slip issued by the second respondent in Refusal Number:RFL/Kadayanallur/2/2023 dated 27.02.2023 and quash the same as illegal and consequently direct the second respondent to register the partition release deed executed by the petitioner in Temporary Document No.TP/137266254/2022 within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.J.Senthil Kumaraiah

For R1 and R2 : Mr.M.Prakash
Additional Government Pleader



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ORDER

This writ petition has been filed in the nature of a Certiorarified Mandamus seeking relief relating to the refusal check slip issued by the second respondent, Sub Registrar, Kadaiyanallur, Tenkasi District in refusal No.RFL/Kadayanallur/2/2023 dated 27.02.2023 and quash the same and direct the second respondent to register the partition deed executed by the petitioner and kept pending in temporary document No.TP/137266254/2022.

2. The petitioner's paternal grandfather Pitchiappa Konar had inherited agricultural land in S.No.414 totally measuring 3.62 acres. He had two sons namely Sankaran, the father of the petitioner and Velayutham. By two separate independent documents, he had settled, 2.58 acres in favour of the father of the petitioner, Sankaran and the remaining 1.3 1/2 acres in favour of his other son Velayutham. Both the properties were separate and had distinct boundaries. They were settled by two separate documents.

3. Velayutham had borrowed money and consequent to that, a suit was filed for recovery of money and in that particular suit, the property which was settled in his favour, was attached by order of the Court. Subsequently, the suit



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was settled and dismissed as settled out of Court. But however, the attachment still remained.

4. The petitioner independently presented a document for partition of the property of 2.58 acres which had been settled on her father Sankaran. This document was refused to be registered by the second respondent, claiming that there was an order of attachment.

5. It is contended by the learned counsel for the petitioner that the order of attachment was only with respect to the 1.3 ½ acres of land settled in favour of Velayuthan, the paternal uncle of the petitioner and that the property settled in favour of the father Sankaran, measuring 2.58 acres is free from any encumbrance. These are issues which should have been examined by the second respondent and the second respondent should not have mechanically issue a check slip.

6. Let the petitioner therefore, produce both the settlement deeds and then the second respondent may examine the schedule in both the settlement deeds in favour of Sankaran and in favour of Velayutham and then examine the property for which attachment had been effected and also examine the fact that



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the suit under which the property had been attached had itself been dismissed as settled out of Court which automatically means that the attachment becomes *non-est* and thereafter take a considered decision about registering the partition deed.

7. In view of this particular reasoning the impugned order is set aside. The petitioner is directed to re-present the partition deed through proper procedure through online and when it is represented within a period of 10 working days, the second respondent may pass a considered order and if he comes to a satisfaction that the two properties are separate, then proceed to register the partition deed, if it is otherwise adequately stamped and the registration fees have been properly paid.

8. This Writ Petition is allowed. No costs.

11.04.2023

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

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To

- 1.The District Registrar,
District Registrar Office,
Tenkasi.
- 2.The Sub-Registrar,
Kadayanallur,
Tenkasi District.



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C.V.KARTHIKEYAN, J.

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