



W.P.(MD) No.8643 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2023

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

**W.P.(MD) No.8643 of 2020
and
W.M.P.(MD) No.8638 of 2023**

T.S.Nellainayagam

... Petitioner

/vs./

1.The District Registrar,
Tirunelveli District,
Tirunelveli.

2.The Sub Registrar,
Sub Registrar Office,
Parkit Managaram,
Palayamkottai,
Tirunelveli District.

3.K.Mandramoorthi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in his proceedings No. Mu.Aa.No.11/2019 dated 10.01.2023 quash the same and consequently direct the 2nd respondent to register the settlement



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deed which is pending in P/No. 11 of 2019 dated 26.11.2019 on the file of the 2nd respondent by assigning proper registration number within a time frame stipulated by this Court.

(Prayer has been amended vide Order dated 10.04.2023).

For Petitioner : Mr.V.Vijay Sankar for
Mr.A.Srinivasan

For R1 & R2 : Mr.T.Amjadkhan
Government Advocate

ORDER

The above writ petition is filed for the issue of a Writ of Certiorarified Mandamus calling for the records of the second respondent in his proceedings in No.Mu.Aa.No.11/2019 dated 10.01.2023, quashing the same and directing the second respondent to register the settlement deed, which is pending in P/No. 11 of 2019 dated 26.11.2019 on the file of the second respondent by assigning proper registration number.

2.It is the case of the petitioner that he is the owner of the land comprised in S.F.No.149/1, T.S.No.59/1, Block No.25 T.S.No.59/79, measuring an extent of 3 acres and 5 cents at Palayam Chetikulam Village, Palyamkottai Taluk,



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Tirunelveli District. The petitioner was desirous of executing a family arrangement in favour of his son in respect of his share. He had therefore presented the document for registration. The second respondent without registering the said document had assigned pending registration P/No.11 of 2019 to the said document and refused to release the document contending that there is a civil suit in O.S.No.139 of 2018 pending, which has been filed by the third respondent. It is the contention of the petitioner that though he and the second respondent are not the parties to this suit, the second respondent had refused to release the document.

3.A counter affidavit has been filed by the first respondent. Pending the writ petition, an impleading petition was filed in W.M.P.(MD) No.9388 of 2020 by one T.S.Senthil Arumugam, the brother of the petitioner. However, he had passed away and therefore, the implead petition was dismissed, since his legal representatives have not sought to implead themselves in the proceedings. The second respondent had passed the order dated 10.01.2023 rejecting the document on the ground that the petitioner is attempting to execute the document with reference to an undivided share, which cannot be done. The petitioner, who had



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originally filed this writ petition for a Mandamus, had subsequently amended the relief for a Certiorarified Mandamus to quash this order dated 10.01.2023 and to register the document.

4.Heard the learned counsels on either side.

5.The ground, on which the second respondent had refused to register the document, is on the ground that the petitioner is only settling his undivided share on his son. Admittedly, the petitioner is also a joint owner and it is well open to him to settle his share on any which person he chooses. The reason for rejecting the claim is absolutely misconceived and therefore, the Writ Petition is allowed. The impugned order of the second respondent in No.Mu.Aa.No.11/2019 dated 10.01.2023 is set aside. The second respondent is directed to register and release the document within a period of three weeks from the date of receipt of a copy of this order. Considering the age of the Settlor, the second respondent shall get his signature affixed within a period of two weeks from the date of receipt or production of the order. If there is any valid objection, the same can also be considered.



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However, there shall be no order as to costs. Consequently, connected
Miscellaneous Petition is closed.

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

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Note : Issue order copy on 08.06.2023

To

1.The District Registrar,
Tirunelveli District,
Tirunelveli.

2.The Sub Registrar,
Sub Registrar Office,
Parkit Managaram,
Palayamkottai,
Tirunelveli District.



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P.T.ASHA, J.

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