



W.P.(MD)No.9827 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2023

CORAM

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH**

**W.P.(MD)No.9827 of 2020**

Megil Dani

... Petitioner

Vs.

1.The District Registrar-Admin,  
Tirunelveli Registration District,  
Tirunelveli.

2.The Sub-Registrar,  
Radhapuram Sub-Registration District,  
Tirunelveli District.

3.Selvin Thambi Jayakumar

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned order vide RFL/Radhapuram/1/2020 dated 28.07.2020, on the file of the second respondent and quash the same as illegal and directing the second respondent to register the document presented by the writ petitioner.

For Petitioners : Mr.P.MuthuvijayaPandian

For R-1 and R-2 : Mrs.D.Farjana Ghoushia  
Special Government Pleader

For R-3 : No Appearance



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## **ORDER**

**WEB COPY** This Writ Petition has been filed challenging the impugned refusal check slip issued by the second respondent dated 28.07.2020, refusing to register the settlement deed dated 15.05.2020 executed by the petitioner in favour of her husband, based on the protest petition filed by the third respondent.

2. Heard the learned counsel appearing on behalf of the petitioner and the learned Special Government Pleader appearing on behalf of the respondents 1 and 2. The third respondent has been served with notice and his name has also been printed in the cause list and there is no representation either in person or through counsel on behalf of the third respondent.

3. The subject property was originally settled in favour of the petitioner by her husband and the petitioner, in turn, wanted to resettle the property in favour of her husband and accordingly executed a settlement deed dated 15.05.2020 in favour of her husband. When this settlement deed was presented before the second respondent, it was objected by the third respondent by filing a protest petition. In view of the same, the second respondent refused to register the document through the impugned refusal check slip dated 28.07.2020. Aggrieved by the same, the present Writ Petition has been filed before this Court.



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4. The main ground on which the second respondent had refused to register the settlement deed was that there was a partition suit that was filed by one Bennetbeula in O.S.No.182 of 2009 before the Principal District Munsif Court, Padmanabhapuram claiming for 2/15<sup>th</sup> share in the suit properties. A preliminary decree was passed through judgment and decree dated 31.10.2018 by granting 2/15<sup>th</sup> share in favour of the said Bennetbeula. According to the petitioner, after the preliminary decree was passed, no steps have been taken by any one to file an application for final decree and the properties were not divided by metes and bounds. In any case, the petitioner was not trying to alienate the property to any third party and she was only trying to settle the property in favour of her husband, who was the fourth defendant in that suit. However, the second respondent acted upon the objection / protest petition given by the third respondent and refused to register the document. It is to be mentioned here that the third respondent was also one of the defendants in that suit like the husband of the petitioner.

5. In the considered view of this Court, the petitioner was only attempting to settle the property in favour of her husband. The property was not going into the hands of any third party. Therefore, if ultimately, the property is divided by metes and bounds and share of the petitioner's husband is allotted, he will not



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get anything more than what was given by the civil Court in O.S.No.182 of 2009. In other words, the execution of settlement deed by the petitioner in favour of her husband, will not enhance the right of the husband and his right over the property will confine itself only to the share that was allotted in the civil suit. This clarification will sufficiently take care of the grievance expressed by the third respondent.

6. In view of the above, the impugned check slip issued by the second respondent dated 28.07.2020 is hereby quashed. There shall be a direction to the second respondent to entertain the document and register the same, if the petitioner satisfies all the other requirements. This registration will be subject to the rights of the parties in O.S.No.182 of 2009.

7. In the result, this Writ Petition is allowed in the above terms. No costs.

**19.12.2023**

NCC:yes/no  
Index:yes/no  
Internet:yes/no  
Nsr



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**N.ANAND VENKATESH, J.**

Nsr

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