



W.P(MD)No.12832 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.12832 of 2023

S.Viswanathan

... Petitioner

Vs.

1.The District Registrar,
Thoothukudi District,
Thoothukudi.

2.The Joint-II-Sub-Registrar,
O/o.the Joint-II, Sub-Registrar,
Thoothukudi.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings of the 2nd respondent in Refusal Check Slip dated 12.04.2023 and quash the same and further directing the 2nd respondent to entertain the release deed dated 02.02.2023 for registration and consequently to register and release the same.

For Petitioner : Mr.M.P.Senthil
For R1 & R2 : Mr.C.Satheesh
Government Advocate



W.P(MD)No.12832 of 2023

ORDER

WEB COPY

The writ petition has been filed in the nature of certiorarified mandamus seeking interference with the proceeding of the second respondent, the Joint-II-Sub-Registrar, Thoothukudi, in Refusal Check Slip dated 12.04.2023 and direct the said respondent to register the release deed, dated 02.02.2023 presented for registration.

2.The reason given for refusing to register the release deed was that, there was a suit for partition which is pending among the family members and that the properties had been mortgaged with the bank. Insofar as the suit for partition is concerned, it is within the family members. The factum of release deed by within the family, can always be informed to the Court and would be necessarily informed to the Court, since it is a readjustment of the shares which would be allotted to the co-sharers.

3.The second reason for refusing to register the document is that the property had been mortgaged with the bank. The learned counsel appearing for the petitioner placed reliance on the dictum laid down by the Division Bench of this Court in N.Ramayee-vs-Sub-Registrar, Registration Department and another, reported in (2020)6 CTC 697. It has been very clearly stated that mere mortgage of the property is not transfer of title and therefore, a person



W.P(MD)No.12832 of 2023

executing a document still retains title over the property with a right to deal with the same. In view of that particular reason given in the aforementioned judgment, I would also this reason for refusing the release deed presented for registration.

4.A direction is given to the petitioner herein to present the release deed after following due procedure before the second respondent and on receipt of the same, after satisfying that necessary stamp duty had been paid and registration charges required had been paid, the second respondent is directed to proceed to register the same, within a period of two weeks from the date of such presentation.

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

19.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Ns/pnn



WEB COPY



W.P(MD)No.12832 of 2023

C.V.KARTHIKEYAN, J.

pnn/Ns

To

- 1.The District Registrar,
Thoothukudi District,
Thoothukudi.
- 2.The Joint-II-Sub-Registrar,
O/o.the Joint-II, Sub-Registrar,
Thoothukudi.

W.P(MD)No.12832 of 2023

19.06.2023