



W.P(MD)No.16492 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.16492 of 2022

and

W.M.P(MD)No.11916 of 2022

1.S.Vasukidevi

2.S.Sivakumar

... Petitioners

Vs.

The Sub Registrar (Registration)

Velipattinam,

Ramanathapuram.

... Respondent

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the respondent in Refusal Check Slip No.RFL/Velipattinam/2/2022 dated 11.07.2022 and quash the same and consequently direct the respondent to register and release the document in favour of the second petitioner.



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For Petitioners : Mr.H.Arumugam

For Respondent : Mr.C.Sathees
Government Advocate

ORDER

The writ petition has been filed in the nature of a Certiorarified Mandamus, to interfere with the Refusal Check Slip No.RFL/Velipattinam/2/2022 dated 11.07.2022 issued by the respondent, Sub Registrar (Registration), Velipattinam, Ramanathapuram District.

2. Both the petitioners are spouses. The property which was presented for registration is a settlement deed executed by the first petitioner in favour of the second petitioner. The said properties are lands in Survey No.371/1A/1 measuring 0.48.00 Hectares at Pattinamkathan Village, Ramanathapuram District and in Survey No.394/5A measuring 11.48 acres, again in the same village. The patta stands in the name of the first petitioner and in the name of his father. The lands originally



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belonged to the parents of the first petitioner. They had executed a 'Will' and a Settlement Deed in favour of the first petitioner. It is seen that the Settlement deed now executed by the first petitioner in favour of the second petitioner was refused to be registered, consequent to the fact that there was a subsisting lease in favour of a School.

3. It is contended by the learned counsel for the petitioners that the lease deed had been executed by the father of the first petitioner in favour of the School, which is run again only by the family members. Both the lessor and the lessee can be categorized as one single party.

4. The learned Additional Government Pleader on behalf of the respondent stated that if 'No Objection Certificate' is produced from the School, then the settlement deed can be registered.

5. In this connection, reliance had been made on Rule 55-A of the Registration Rules. However, the Refusal Check Slip is dated 11.07.2022 even prior to the introduction of the Rules 52 and 55A to the Registration Rules. It must be stated that Rule 55A was considered by a



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learned Single Judge in *W.P.No.2758 of 2023 in Federal Bank Ltd., Vs. The Sub Registrar, Pollachi and Others*, and by Order dated 08.02.2023, the said rule had been struck down by the learned Single Judge.

6. Since a Settlement Deed which has been produced for registration and the first petitioner is the owner of the property and the second petitioner is a family member/husband of the first petitioner. I find no impediment in the respondent registering the Settlement Deed. The creation of the lease does not affect the title of the property. It is only a permission granted to the lessee to occupy the lands. Certainly that permission does not convey title.

7. On an earlier occasion, sitting in a Division Bench, I had an occasion to sit along with (*Justice N. Sathish Kumar*) on a reference with respect to the mortgage of a property and whether such an existing mortgage can be a bar to refuse registration of any document. It has been very categorically held by us that the existing mortgage cannot be a bar. The reference is *N.Ramayee Vs. The Sub Registrar, Salem District and Another* reported in 2020 (6) CTC 697.



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8. In view of the above reasons, a direction is given to the respondent to register the document presented if it confirms to other regulations with respect to the payment of stamp duty and registration charges.

9. The writ petition stands allowed. The registration should be effected within a period of 10 working days from the date on which, the document is again presented by the petitioners herein. No costs. Consequently, connected miscellaneous petition is closed.

08.03.2023

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

RM



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To
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The Sub Registrar (Registration)
Velipattinam,
Ramanathapuram.



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C.V.KARTHIKEYAN, J.

RM

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