



W.P.(MD)No.15715 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED :29.03.2023

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.15715 of 2016

P.Rajangam

... Petitioner

Vs.

1.The Deputy Inspector General of
Registration,
Madurai District, Madurai.

2.The District Registrar Administration,
Madurai South, Madurai.

3.The Sub Registrar,
Solavandhan, Madurai.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the Sub-Registrar, Shozhavandhan to register the partition deed dated 26.02.2016, which was returned on 07.03.2016 on the ground that one of the share holders did not sign the document, and grant such other and further reliefs.

For Petitioner :Mr.S.Tamizharasan

For Respondents :Mr.C.Satheesh
Government Advocate



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ORDER

The petitioner assails a refusal check slip dated 07.03.2016 by which the registering authority declined to register a partition deed submitted for registration by the petitioner.

2. The petitioner states that his father, Pitchai Pillai, had purchased two properties at the survey numbers described in paragraph 3 of the affidavit in support of this writ petition. Upon the death of his father on 25.11.2001, it is stated that the petitioner's mother, Nagammal, the petitioner and his siblings succeeded to the estate as his legal heirs. The legal heirship certificate is cited to substantiate the submission. Since the properties had remained undivided for a long time after the death of the petitioner's father, it is stated that negotiations were held in the presence of relatives. Pursuant thereto, a partition deed was prepared and executed by the petitioner and his sister Panchavarnam. However, the petitioner's brother, Jayakodi, refused to sign the said partition deed. In these facts and circumstances, the two siblings who agreed to the partition executed the partition deed. The schedule to the said partition deed provided for the allotment of some properties, under schedule 'B' thereof, to the petitioner's brother, Jayakodi.



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This document was refused to be registered by the registering authority.

Hence, this writ petition.

3. Learned counsel for the petitioner submits that Jayakodi is not a party to the partition deed and that, therefore, the registering authority ought to have registered the document. In support of this contention, learned counsel relies upon a manual published by the registering authority. By relying on Clause 10 (3) thereof, she submits that the instructions to the registering authority are that even if one of the sharers has not signed a partition deed, it may be registered.

4. Learned Additional Government Pleader submits that the order under challenge does not contain any infirmity and that cogent reasons were assigned in the refusal check slip for refusing to register the document.

5. On examining the partition deed, it appears that the properties were divided into A schedule, B schedule and C schedule and B schedule properties were allotted to the share of Jayakodi. The said Jayakodi admittedly did not agree to the partition, including the manner in which the



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properties have been divided and allotted as between the three siblings.

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6. In these circumstances, the parties seeking partition should approach the jurisdictional civil court by filing a suit for partition. Without the consent of one of the legal heirs, the properties cannot be partitioned without approaching a court for relief. The impugned order sets out the above reasons to justify the refusal to register the document. In exercise of discretionary jurisdiction, I am not inclined to interfere with the said order.

7. For reasons set out above, W.P.(MD).No.15715 of 2016 is dismissed by leaving it open to the petitioner to seek redressal before the jurisdictional civil court. There shall be no order as to costs.

29.03.2023

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



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SENTHILKUMAR RAMAMOORTHY, J.

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