



W.P(MD)No.25005 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.10.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.25005 of 2023

Rajendran

... Petitioner

Vs.

1.The Sub Registrar,
Ambasamudram Sub Registrar Office,
Tirunelveli District.

2.Gomathi

3.Esakkiammal

... 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 pertaining to the impugned refusal check slip issued by the first respondent in RFL/Ambasamudram/73/2023 dated 09.10.2023 and quash the same as illegal and consequently direct the first respondent to register the cancellation of the mortgage deed dated 09.10.2023.



W.P(MD)No.25005 of 2023

For Petitioner : Mr.C.Saravanakumar

For Respondents : Mr.K.Balasubramani
Special Government Pleader for R.1

Mr.R.Mohanasundaram for R.2 & R.3

ORDER

Heard both sides.

2. The petition mentioned property belonged to one Sappani. He is none other than the father of the third respondent and husband of the second respondent. He executed a mortgage deed dated 14.06.2001 in favour of the petitioner (Document No.682 of 2001). His liability has since been cleared. The petitioner executed a cancellation deed dated 09.10.2023 and it was presented before the first respondent for registration. The first respondent declined to receive the document on the ground that the original mortgage deed was not produced. On that ground, the impugned refusal check slip came to be issued. The same is put to challenge in this writ petition.



W.P(MD)No.25005 of 2023

WEB COPY

3. When the parties have arrived at a consensus and more than anything else when the mortgagee himself wants to cancel the mortgage, I fail to understand what objection the registering authority can possibly have. The learned counsel appearing for the petitioner draws my attention to the order dated 06.01.2023 in W.P(MD)No.28970 of 2022 (Ahamed Vs The Sub Registrar & Other). Paragraph 3 of the order reads as follows:

“3. After considering the rival contentions and objections raised by the learned Additional Government Pleader, I am more than satisfied that the impugned refusal check slip has to be quashed. The parties have arrived at a consensus. This is not a case in which there should be any insistence on the production of the original deed is necessary. After all, they only want to cancel the earlier mortgage.”

The impugned refusal check slip is quashed. The petitioner is permitted to re-present the cancellation deed. The first respondent shall receive the same, register it and release it subject to the fulfilment of the usual formalities.



W.P(MD)No.25005 of 2023

4. This writ petition is allowed accordingly. There shall be no order as to costs.

16.10.2023

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

To

The Sub Registrar,
Ambasamudram Sub Registrar Office,
Tirunelveli District.



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W.P(MD)No.25005 of 2023

G.R.SWAMINATHAN, J.

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W.P(MD)No.25005 of 2023

16.10.2023