



W.P(MD)No.28091 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2023

CORAM

THE HONOURABLE **MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)No.28091 of 2022

and

W.M.P(MD)No.22179 of 2022

M.Nageswari

... Petitioner

Vs.

1.The Sub Registrar,
Manamadurai,
Sivagangai.

2.M.Sathurangam

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned refusal check slip in RFL.khdhkjiu/5/2022, dated 10.11.2022, on the file of the first respondent and quash the same and further directing the respondent to receive and register the sale deed, dated 10.11.2022, executed by the petitioner and the petitioner's sisters in favour of Vidhyapriya.

For Petitioner : Mr.G.Prabhu Rajadurai

For R-1 : Mr.N.Satheeshkumar
Additional Government Pleader

For R-2 : Mr.S.Vidhyasagar



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ORDER

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Heard the learned Counsel on either side.

2. The property in question belonged to one Muthaiah. He was blessed with three sons, namely, Nagalingam, Boominathan and Sekar. Nagalingam had passed away, leaving behind his three sons. There was a registered partition involving Sekar, Boominathan and sons of Nagalingam. The share allotted to Boominathan was settled by him in favour of his five daughters. That was a registered document. The five daughters subsequently executed the petition mentioned document in favour of one Vidhyapriya. When the document was presented for registration before the first respondent, the first respondent took the stand that since a partition suit has been filed involving the petition mentioned property, the document cannot be registered. To this effect, the impugned refusal check slip was issued. Challenging the same, the present writ petition has been filed by one of the settlors.

3. The stand of the contesting respondent is that apart from three sons, late Muthaiah had a daughter, who is none other than the second respondent herself. The partition deed was executed among the sons by excluding her. That is why Sathurangam / second respondent herein had filed O.S.No.147 of 2020 on the file of the Sub Court, Paramakudi.



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4. The learned Additional Government Pleader appearing for the Registering Authority draws my attention to the order dated 18.11.2021, made in W.P(MD)No.19950 of 2021. A learned Judge of this Court had opined that when the rival parties are locked in civil litigation, it is only just and proper that the jurisdictional civil Court takes a call in the matter.

5. Adopting the very same approach, I direct the second respondent to file an I.A in the pending suit. In the said I.A, the Registering Authority as well as the contestants will be shown as respondents. The jurisdictional civil Court will dispose of the I.A on merits and in accordance with law within a period of eight (8) weeks after it is filed and numbered. Based on the decision of the jurisdictional civil Court which of course may be subject to appeal / revision, the decision of the Registering Authority set out in the impugned refusal check slip will abide. If the second respondent fails to file an I.A within the time limit stipulated above, the first respondent is directed to proceed with the registration. This writ petition stands disposed of accordingly. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

23.01.2023



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

To

The Sub Registrar,
Manamadurai,
Sivagangai.



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G.R.SWAMINATHAN, J.

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