



W.P(MD)No.26528 of 2023

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED : 16.11.2023**

**CORAM**

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

**W.P(MD)No.26528 of 2023**

**and**

**W.M.P(MD)No.22807 of 2023**

Karthick

... Petitioner

Vs.

The Joint Sub Registrar,  
Karur,  
Karur District.

... Respondent

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 records relating to the impugned refusal cheque slip in RFL/I Joint Sub Registrar, Karur / 25/2023 dated 01.06.2023 issued by the respondent and quash the same as illegal and consequently direct the respondent to register the partition deed dated 01.06.2023, presented by the petitioner for registration within the time that may be stipulated by this Court.



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For Petitioner : Mr.M.Mahaboob Athiff  
For Respondent : Mr.M.Siddharthan  
Additional Government Pleader

### **ORDER**

Heard both sides.

2. Thiru.Swamiappan was assigned the petition mentioned land in the year 2005. He passed away on 08.06.2010. Thiru.Swamiappan was survived by his mother, wife and son / the petitioner herein. The partition of the assignment land took place among the legal heirs. The partition deed was presented before the respondent for registration. The respondent returned the same on the ground that the petitioner has not obtained No Objection Certificate from the jurisdictional Tahsildar. Challenging the impugned refusal check slip, the present writ petition came to be filed.

3. RSO-15(3) reads as follows:

**“(3)Special Conditions:** (i) The assigned land shall not be alienated for a period of ten years from the date of assignment. In the event of the assignee wishing to dispose of the land after the above period, he should get



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prior permission of either the Tahsildar or the Revenue Divisional Officer, who should give permission only, if the sale is to one of the categories, eligible for assignment of Government/ Waste lands for cultivation purposes.

G.O.Ms.No.2485. Rev. dt. 9.11.1979

The restriction on alienation cannot be enforced against the procedures in Court auction in satisfaction of decrees.

Govt. Lr.No. 11286/FN/71-6, Rev. dt. 24.11.71

The land assigned may be hypothecated to a co-operative society consisting entirely of landless and poor persons likely to engage themselves in direct cultivation. This prohibition shall not apply in a case where an assignee offers to give such conditionally assigned land to the Gramadan Sarvodaya Co-operative Society with specific understanding that he/she will not be eligible for further assignment of Government land on the pretext of becoming landless poor consequent on the gift. of that land. The assignee can hypothecate the assigned land in favour of scheduled banks including Nationalised Banks for affording credit to the Agriculturists subject to the following conditions:-

(i) That loans for minor irrigation purposes should be contingent on ground water discipline.



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(ii) The Commercial Banks can be allowed to lend for minor irrigation purposes on the security of the land assigned wherever Primary Land Development Banks are not able to lend for the purpose.

G.O.Ms.No.397, Rev. dt. 21.2.1979

B.P.Perm. 312, dt. 27.3.1979

(iii) The land shall be brought under cultivation within a period of three years from the date of assignment;

Provided (a) the Tahsildar may extend the aforesaid period by two years if he considers it necessary and Revenue Divisional Officer may, if he considers it necessary extend the period by a further period of one year; and

(b) where an officer not below the rank of Tahsildar certifies that the land assignment or portion thereof is uncultivable such land or portion, as the case may be, shall not be governed by this condition.

(iii) It should not be leased out, but direct cultivation should be carried on by the assignee or the legal heirs.

Govt. Lr.No. 36741/LD3-1/97-1, Rev. dt. 15.7.1997

(iv) The assignee shall plant 10 trees on each acre of land (0.40.2 Hac.) assigned to him within one year from the date of assignment and shall rear and maintain them.”



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It is true that an assigned land cannot be alienated for the period set out in the assignment committee. Even thereafter before disposing the same, permission must be obtained from the competent authority. But this requirement of getting prior permission will apply only if the land is disposed of or alienated. In the case on hand, the legal heirs of the deceased assignee have only partitioned the assigned land among themselves. This will not amount to disposal of the assigned land or alienation. Hence, the reason set out in the impugned refusal check slip is unsustainable in law. It is set aside. The petitioner shall re-present the document. It shall be received, registered and released by the respondent subject to the fulfillment of usual formalities.

4.This writ petition is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

**16.11.2023**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes/ No  
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**G.R.SWAMINATHAN, J.**

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To

The Joint Sub Registrar,  
Karur,  
Karur District.

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