



W.P.(MD)No.28388 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 09.01.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.28388 of 2022

Balasaraswathy

... Petitioner

Vs.

The Joint I Sub Registrar,
Palani, Office of District Registrar, Palani.

... Respondent

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to refusal slip of respondent made in refusal slip No.RFL/I Joint Sub Registrar, Palani/46/2022 dated 05.12.2022 quash the same and consequently, direct the respondent to register the agreement of sale executed by the petitioner dated 05.12.2022 within time frame as may be fixed by this Court.

For Petitioner : Mr.R.Murali
For Respondent : Mr.S.Shamugavel
Additional Government Pleader

ORDER

Heard the learned counsel on either side.



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WEB COPY 2. The petitioner claims 1/8th share in the petition mentioned property. The petitioner claims such a right by virtue of being the widow of her husband Natarajan. Natarajan in turn got the said right by virtue of Will dated 30.01.1955 registered as Doc.No.7/1955 on the file of the respondent. The petitioner had entered into a sale agreement in favour of one Thangaraj. When the document was presented for registration, the respondent declined to receive it on account of the non-production of the parent deed. The refusal check slip was issued. challenging the same, the present writ petition has been filed.

3. When the matter was taken up for hearing, the learned counsel for the petitioner pointed out that two months ago, another co-owner had registered a sale agreement in respect of a very same property in respect of his undivided share. The petitioner's counsel would point out that a different yardstick cannot be applied in the case of the petitioner.

4. The specific stand of the petitioner is that the original document is with the other co-owners and that in view of the strained relationship



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between the parties, the petitioner is not able to secure the same for producing it before the registering authority.

5. The issue is no longer *res-integra*. A learned Judge of this Court vide order dated 18.11.2021 in W.P(MD).No.19950 of 2021 (*Selvam Vs., Joint Sub-Registrar No.I, Karaikudi*) had held that in certain circumstances, where there are family disputes, it would be highly impossible to get the original copy from a person with whom there is an existing dispute.

6. However, the petitioner will have to incorporate the necessary recital in the sale agreement. She have to mention as to how she is tracing her title and also specifically make a mention that the custody of the original document is with her co-owners and that they are refusing to part with the same inspite of demand. She must also make a further averment that she has not created any encumbrance in respect of her undivided share over the petition mentioned land. If the petitioner re-presents the sale agreement by incorporating such recitals along with certified copy of the original document, the respondent will receive the same, register it and release it subject to the fulfilment of the other usual formalities.



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WEB COPY 7. Accordingly, the Writ Petition is allowed on these terms. No costs.

09.01.2023

NCC : Yes / No

Index : Yes / No

Rmk

Note :Issue order copy on 24.01.2023

To

The Joint I Sub Registrar,
Palani, Office of District Registrar, Palani.



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G.R.SWAMINATHAN,J.

Rmk

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