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W.P. Nos.233, 236 & 238 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

W.P. Nos.233, 236 & 238 of 2024

T.Senthilkumar	.. Petitioner in W.P. No.233/2024
T.Ramkumar	.. Petitioner in W.P. No.236/2024
T.Lakshmanakumar	.. Petitioner in W.P. No.238/2024

Vs

The Sub Registrar
Mallasamuthiram SRO
Mallasamuthiram
Tiruchengode Taluk
Namakkal District

.. Respondent in all WPs

Prayer in W.P. No.233 of 2024: Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus calling for the records relating to the impugned refusal check slip in RFL/Mallasamudiram/317/2023 dated 01.12.2023 passed by the respondent, quash the same and consequently direct the respondent to register the Settlement Deed dated 01.12.2023 executed by petitioner in favour of petitioner wife Keerthika in respect of 3.41 1/2 cents in S.F. No.8/6D, Nachipatti Village, Rasipuram Taluk, Namakkal District.



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Prayer in W.P. No.236 of 2024: Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus calling for the records relating to the impugned refusal check slip in RFL/Mallasamudiram/318/2023 dated 01.12.2023 passed by the respondent, quash the same and consequently direct the respondent to register the Settlement Deed dated 01.12.2023 executed by petitioner in favour of petitioner wife Sowmya in respect of 3.29 cents in S.F. No.8/6C, Nachipatti Village, Rasipuram Taluk, Namakkal District.

Prayer in W.P. No.236 of 2024: Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus calling for the records relating to the impugned refusal check slip in RFL/Mallasamudiram/319/2023 dated 01.12.2023 passed by the respondent, quash the same and consequently direct the respondent to register the Settlement Deed dated 01.12.2023 executed by petitioner in favour of petitioner wife Sasi in respect of 3.29 cents in S.F. No.8/6B, Nachipatti Village, Rasipuram Taluk, Namakkal District.

For Petitioner in : Mr.N.Manokaran
in all WPs

For Respondent : Mr.B.Vijay, Addl. Govt. Pleader
in all WPs

COMMON ORDER



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Challenge has been made to the refusal check slips issued by the respondent on 01.12.2023 in respect of settlement deeds presented by the petitioners on the same day.

2. It is the case of the petitioners that an extent of 8.49 acres are their ancestral lands lying in different survey numbers. Their father M.Thambidurai, grandfather P.Muthu Gounder and their paternal uncle M.Murugesan had entered into a partition deed on 28.02.2022, in which, 'A' schedule was allotted to Muthu Gounder, 'B' schedule was allotted to Murugesan and the 'C' schedule was allotted to petitioners' father Thambidurai. By virtue of the said partition, Thambidurai has partitioned his share of lands among his sons on 14.07.2023. Three of his sons were allotted certain cents of ancestral property in the partition. Out of the property allotted to them as shares, they have now executed settlement deeds in favour of their wives and when the same were presented for registration, the same were refused by the Registrar on the ground that the property is a house site therefore registration cannot be made.

3. A counter affidavit has been filed to the effect that in an earlier



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transaction neighbouring land has been sold as lay out, therefore, refusal slips have been issued.

4. Heard both sides and perused the materials available in the form of typed set of papers.

5. The very recital in the documents and the facts narrated in the writ petition clearly indicate that the ancestral property has been the subject matter of several partition deeds. The property allotted to the father of the petitioners was further partitioned among three sons. Thereafter settlement deeds came to be executed by the petitioners in respect of their wives. Merely because a neighbouring land has been sold as lay out, it cannot be presumed that the remaining land is also a house site. This court in ***Subramani vs. The Sub Registrar, Rasipuram and others in W.P. No.11056 of 2024 Dated 26.04.2024*** in paragraph 23 held as follows:

"23. Similarly, this court has also come across various instances of refusal of documents citing that road has been formed in the particular survey number, therefore, it should be treated as house sites, even though the agricultural land is sought to be transferred. This court



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is of the view that merely because some portion of the land in particular survey number sold as house sites earlier, when the remaining land remained as an agricultural land and no lay out has been formed in the survey number with the approval of the competent authorities, merely because some portion of the land is sold earlier as house sites, there is no bar for registering agricultural lands."

6. In view of the above, as only the agricultural properties which are originally owned by Muthu Gounder, namely the father of the petitioners, was partitioned among the sons of the Muthu Gounder, which is the subject matter of the settlement deeds later, it cannot be said that as the neighbouring land was sold as lay out this land will also be presumed as house site. Such presumption of the respondent is without any material facts and has no legal background. In such view of the matter, the orders refusing to register the settlement deeds are liable to be set aside.

7. Accordingly, these writ petitions are allowed and the orders of the respondent dated 01.12.2023 refusing to register the settlement deeds are set aside. There shall be a direction to the Sub Registrar, Mallasamuthiram,



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Tiruchengode Taluk, Namakkal District, to register the settlement deeds dated 01.12.2023 presented by the petitioners, within 15 days from the date of receipt of a copy of this order. No costs.

05.06.2024

Index : Yes / No
Speaking/non speaking order
Neutral Citation : Yes/No
Asr

To

- 1.The Sub Registrar
Mallasamuthiram SRO
Mallasamuthiram
Tiruchengode Taluk
Namakkal District
- 2.The Government Pleader
High Court, Madras

N. SATHISH KUMAR, J.

Asr



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