



W.P.No.2494 of 2024

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.02.2024

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THE HONOURABLE MR. JUSTICE P.VELMURUGAN

**W.P.No.2494 of 2024 and
W.M.P.Nos.2727 and 2728 of 2024**

1. N.Periyasamy
2. Nallammal

... Petitioners

Versus

1. The Sub Registrar,
Registration Department,
Paramathi, Namakkal District.
2. The Sub Registrar,
Registration Department,
Velagoundenpatti, Namakkal District.
3. Gurusamy

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus calling for the entire records relating to the impugned refusal check slip issued by the first respondent in his Refusal Number : RFL/Paramathi/27/2023, dated 16.03.2023 and quash the same and consequently directing the respondents 1 and 2 to register the partition deed dated 16.03.2023 and return the same to the petitioners.



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For Petitioners : Mr.C.Prakasam

For Respondents : Mr.Yogesh Kannadasan,
Spl. Government Pleader for R1 & R2

ORDER

The writ petition has been filed to quash the refusal check slip issued by the first respondent in Refusal Number:RFL/Paramathi/27/2023, dated 16.03.2023 and consequently to direct the respondents 1 and 2 to register the partition deed dated 16.03.2023 and return the same to the petitioners.

2 The facts of the case is that the third respondent filed a suit in O.S.No.499 of 2003 against the petitioners for recovery of money and subsequently both of them arrived settlement, but the suit was transferred to District Musif cum Judicial Magistrate, Paramathi and renumbered as O.S.No.412of 2004. But, the third respondent had already obtained order of attachment of the petitioner's ancestors immovable property. Since the petitioner and the third respondent arrived at a settlement, they both did not appear before the Civil Court and proceed the suit, the suit was dismissed and



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the same was not yet restored. Thereafter, when the petitioner presented the partition deed for registration, the first respondent refused to register the same, quoting the order attachment as reason for the same, against which, the writ petitioner filed this writ petition seeking to quash the refusal slip and to register the partition deed.

3 According to learned counsel appearing for the petitioner the third respondent filed a suit for recovery of money and obtained an order of attachment and subsequently the main suit itself dismissed for default and the same has not been restored till date. The petitioner presented the partition deed of the ancestral property for registration but the first respondent refused to register the same and passed the impugned refusal slip. The said order of attachment was made entry in the encumbrance certificate. The first respondent without considering the fact that the suit itself was dismissed, the first respondent refused to register the partition deed presented by the petitioner, which warrants interference.

4 Learned Special Government Pleader appearing for the respondents 1 & 2 would submit that based on the order of the Civil Court, the order of attachment was entered in the encumbrance certificate and the so far



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the same has not been duly raised and hence the first respondent refused to register the document presented by the writ petitioners.

5 Heard the learned counsel appearing for the petitioners and the learned Special Government Pleader appearing for the respondents 1 & 2 and perused the materials available on record.

6 Admittedly the Civil Court passed the order of attachment and the same was made entry in the encumbrance certificate. Therefore the first respondent refused to register the document presented by the petitioners. Further the refusal slip, which is impugned in the writ petition is not a final order and since there was entry in the encumbrance certificate the first respondent refused to register the same. Even though, subsequently the main suit was dismissed, the same has to be communicated in the manner known to law. The petitioners are not in a position to state as to whether already the order of dismissal of suit was communicated to the first respondent or not. Therefore this Court does not find any irregularity or illegality in the order passed by the first respondent.



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In fine, the writ petition stands dismissed. However, the petitioners are at liberty to workout their remedy in the manner known to law. The miscellaneous petition in W.M.P.No.2727 of 2024 is ordered on payment of separate cost. Consequently connected miscellaneous petition is closed. No costs.

06.02.2024

Index: Yes/No
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To

1. The Sub Registrar, Registration Department,
Paramathi, Namakkal District.
2. The Sub Registrar, Registration Department,
Velagoundenpatti, Namakkal District



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P.VELMURUGAN, J.,

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