



WEB COPY



WP.No.9471 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.9471 of 2024
and W.M.P.No.10464 of 2024

K.B.Hemchand

.. Petitioner

Versus

1.The Inspector General of Registration
100, Santhome High Road, Mullima Nagar
Mandavelipakkam, Raja Annamalai Puram
Chennai – 600 028

2.The District Registrar
O/o. Registration Office
K-9/3, Coonor Road, Ooty Head Office
Ooty – 643 001

3.The Sub Registrar
O/o.Sub Registrar Office
Police Station Road, Coonoor
Tamil Nadu – 643 102

4.Masiammal
5.Saraswathi

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent relating to the impugned order dated 05.04.2023 to quash the same and consequently direct the 3rd respondent to register the sale deed presented by the petitioner.



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For Petitioner : Mr.M.Rajasekhar

For Respondent : Mr.Yogesh Kannadasan for R1 to R3
Special Government Pleader

ORDER

Challenging the refusal slip issued by the third respondent mainly on the ground of protest petition given by the fifth respondent.

2. The protest petition has been given on the ground that the fifth respondent is having 1/6th share of property in respect of which preliminary decree is already passed. Therefore, based on that protest petition, the impugned refusal checkslip has been issued.

3. Heard both sides and perused the materials placed on record.

4. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

5. At the outset, this Court is of the view that merely on the basis of the protest petition, document cannot be refused to be registered. In substantive provisions of law, there is no bar for the co-owner to sell the undivided share



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which is dealt under Section 44 of the Transfer of Property Act, 1882. The only restriction on the purchaser is that he cannot seek joint possession. Therefore, the sale of undivided share, the co-sharer cannot be denied merely on the basis of protest petition by others. Admittedly, in this case, it appears that preliminary decree has been passed. Such being the position, the purchaser naturally will step into the shoes of the vendor, whatever share allotted in the final decree to his vendor will go to him. Such view of the matter, there cannot be any refusal to register the documents.

6. Such view of the matter, the impugned order is set aside and there shall be a direction to the third respondent to register the sale deed dated 05.04.2023 presented by the petitioner. Such exercise shall be completed within a period of one month from the date of receipt of a copy of this Order.

7. With the above direction, this writ petition is allowed. Consequently, connected miscellaneous petition stands closed. No costs.

10.04.2024

dhk

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

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N. SATHISH KUMAR, J.

dhk

To,

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Chennai – 600 028

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