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WP.No.12919 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.12919 of 2024

P.Arumugam

.. Petitioner

Versus

1. The Inspector General of Registration
Kamarajar Salai, Santhome, Chennai

2.The Joint 2, Sub Registrar
Tindivanam Registration Office
Tindivanam, Villupuram District

.. 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 entire records pertaining to the Refusal Check Slip in No. RFL/2 Joint Sub Registrar, Tindivanam/3/2024 dated 10.04.2024 on the file of the 2nd respondent quash the same and consequently direct the 2nd respondent to take necessary steps for registration of Deed of Sale dated 10.04.2024.

For Petitioner : Mr.K.Balasubramanian

For Respondents : Mr.L.S.M.Hasan Fizal
Additional Government Pleader



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ORDER

By consent of both parties, this writ petition is taken up for final disposal.

2. Challenge has been made to the refusal checkslip issued on the ground that in respect of the same property, one Saroja claiming to be wife of the petitioner has already executed a settlement deed in favour of one Senthil Kumar. Therefore, since, there is already a settlement deed, there cannot be a second settlement deed.

3. It is the case of the writ petitioner that he has acquired the title to the property by virtue of partition deed dated 09.06.1981 in Doc.No.1223/1981, wherein, total extent of 3 acres 9 cents were allotted to the petitioner. Out of total extent, 1 acre 30 cents were sold to one Prakash and 0.35 cents as settlement in favour of his son Vijayabaskar, the remaining 1 acre 44 cents is in the possession of the petitioner. When he presented settlement deed in favour of his son in respect of the remaining land, refusal checkslip came to be passed. Challenging the same, writ petition.



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4. Counter has been filed by the second respondent to the effect that one Saroja, wife of Arumugam has executed a settlement deed in Doc.No.31 of 2011 in favour of Senthil Kumar in respect of 2 acres 74 cents. Therefore, unless earlier settlement deed is set aside, another settlement deed cannot be registered.

5. The learned counsel for the petitioner submitted that the said Senthil Kumar claiming to be a son of the writ petitioner has already filed a suit in O.S.No.161 of 2011 on the file of District Munsif, Tindivanam as against the writ petitioner and others. In the said suit, the paternity of the said Senthil Kumar was questioned and DNA examination has been done. The DNA report indicate that the petitioner is not a biological father of the said Senthil Kumar. Pursuant to the said report, the suit was dismissed for default. Therefore, Saroja claiming to be second wife executed settlement deed in favour of Senthil Kumar did not convey any title. The petitioner having acquired the property in Partition Deed dated 09.06.1981, he is entitled to deal with the property, therefore, earlier settlement is not a ground to refuse the subsequent document. The rights of the parties will be decided based on the title they have established in the competent forum. Hence, seeks to allow this writ petition.



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

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7. As rightly pointed out by the learned counsel for the petitioner that the suit in O.S.No.161 of 2011 was dismissed for default on 29.08.2023. The DNA report available on record also indicate that the petitioner was excluded from the paternity of Mr.Senthil Kumar. Such being the position, merely because some encumbrance is created by third parties who have no title, it cannot be said that the person having title cannot deal with the property.

8. Accordingly, this impugned refusal slip stands quashed. The second respondent is directed to register the sale deed dated 10.04.2024 within a period of one week from the date of receipt of a copy of this Order.

9. In view of the above, this writ petition stands allowed. No costs.

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Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No



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