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W.P.No.14688 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2024

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THE HONOURABLE Mr.JUSTICE N.SATHISH KUMAR

W.P.No.14688 of 2024

C.Malarkodi

.. Petitioner

Vs

1.The District Registrar (Administration)
Registration Department
Kallakurichi
Kallakurichi District

2.The Sub Registrar
Chinnasalem SRO
Kallakurichi District

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned Refusal Check Slip in RFL/Chinnasalem/31/2024 dated 29.04.2024 passed by the 2nd respondent, quash the same and consequently to direct the 2nd respondent to register the Settlement Deed dated 26.04.2024 executed between the petitioner in favour of her two sons viz., Karunakaran and Manikandan.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.L.S.M.Hasan Fizal

Additional Government Pleader



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ORDER

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2. Challenging the impugned Refusal Check Slip dated 29.04.2024 passed by the 2nd respondent, this writ petition has been filed.

3. Heard learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

4. The reasons assigned for refusal for registering the Settlement Deed are to the effect that there is no evidence to show that the will executed by the petitioner's father is his last will and the mortgage of the year 1975, is in existence. As this very order is against fundamental and substantive law of the Country, this Court is of the view that no counter is required and the order can be interfered with for the administration of justice. It is not the duty of the Registrar to find out whether this is the last will of the Testator and only the family members are competent to challenge any will executed by any member of the family. That apart, even



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assuming that the mortgage is in existence, the same is not a bar for subsequent transfer and even if any transfer takes place, such transfer is always subject to the mortgage, which issue has already been decided by this Court in *N. Ramayee v Sub-Registrar [(2020) 6 CTC 697]*. The same view is also reiterated in *G.Rajasulochana Vs. The Inspector General of Registration and Others (W.P.No.29706 of 2022 decided on 16.04.2024)* and so also in *Subramani Vs The Sub Registrar, Rasipuram and Another (W.P.No.11056 of 2024 decided on 26.04.2024)*

5. Despite directions of this Court to follow the above dictum scrupulously, still, the authorities concerned are not following the same and actually driving the parties from pillar to post. Such an attitude is nothing, but total non-application of mind by the authorities. If this trend continues and the Government is not taking the matter seriously, it will lead to lawlessness in the State, as if the Registering Authority has a separate legislation and control over all the transactions. It is noted that the transaction is controlled by Transfer of Property Act and not by Registration Act. Without understanding the basic principle, the registering authorities are passing orders in a callous manner. Unless the guidelines already issued in this regard in *Subramani (supra)*, is followed



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throughout the State, this Court is of the definite view that the registering authorities will create lawlessness in the State.

6. Hence, the impugned order passed by the 2nd respondent is set aside and the 2nd respondent is directed to register the Settlement Deed of the petitioner, within a week's time from the date of receipt of a copy of this order.

With the above direction, this writ petition is allowed. No costs.

07.06.2024

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Index : Yes/No

Neutral Citation : Yes/No



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N.SATHISH KUMAR, J.

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