



WEB COPY



W.P. No.20179 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.20179 of 2024

S.Kannan

... Petitioner

Vs

1.The District Registrar (Salem West)
No.313, 3rd Floor
District Registration Office Campus
Salem Collectorate Building
Kottai Main Road,Salem - 636 001

2.The Sub Registrar
Edappadi Sub Registrar Office
Edappadi Post & Taluk
Salem - 637 101

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned Refusal Check Slip of the 2nd respondent in Refusal No.RFL/Edappadi/4/2024 dated 31.05.2024 and quash the same as illegal & arbitrary and consequently direct the 2nd respondent S.R.O., Edappadi, Salem District to register the settlement deed dated 31.05.2024 presented for Registration in Pre-Registration Token Receipt No.TP/182949780/2024 dated 31.05.2024, within a stipulated time.



WEB COPY



W.P. No.20179 of 2024

For Petitioner : Mr.N.Vijaya Basker
for M/s.Law Vision

For Respondent : Mr.L.S.M.Hasan Fizal
Addl. Govt. Pleader for R1 & R2

ORDER

This writ petition has been filed challenging the refusal Check Slip of the 2nd respondent in Refusal No.RFL/Edappadi/4/2024 dated 31.05.2024 refusing to the register the settlement deed dated 31.05.2024 presented for Registration in Pre-Registration Token Receipt No.TP/182949780/2024 dated 31.05.2024.

2. It is the case of the writ petitioner that when he presented a settlement deed in respect of 1.57 acres in various survey numbers, the same has been refused to be registered on the ground that in the same survey numbers, there are earlier transactions found in the encumbrance certificate. The property was originally allotted to one Aanai Gounder in the year 1956. He had two sons and one daughter. According to the petitioner, the said Aanai Gounder left a Will dated 09.03.2011 bequeathing the property in favour of the sons and grandchildren. As far as mother's property is concerned, the same has been allotted to the daughter Kannaiyah. Thereafter, Aanai Gounder also executed a



W.P. No.20179 of 2024

WEB COPY

settlement deed in respect of 1/3rd share in favour of the daughter Kannaiyah. However, the said settlement deed has been cancelled vide Document No.3582/2010 for the reason that mother's property was already allotted. Despite the cancellation of the settlement deed, Kannaiyah has executed a settlement deed in favour of her family members vide Document No.783/2011. Based on the said settlement deed, it appears that a sale deed has been registered in the year 2024 bearing Document No.693 of 2024. Citing the above document, the present settlement deed was refused to be registered.

3. Learned counsel appearing for the petitioner would submit that, the settlement deed, based on which title has been traced by one Kannaiyah, has already been cancelled in the year 2010, which is also reflected in the encumbrance certificate. Therefore, there is no bar under law for the petitioner to deal with the property now. Hence the Sub Registrar cannot go into the title at this stage.

4. It is the contention of the learned Additional Government Pleader, appearing for the respondents 1 and 2 that the Sub Registrar mainly refused to



W.P. No.20179 of 2024

WEB COPY

register the document, since there are double entry in respect of the same survey numbers.

5. Heard both sides and perused the entire materials available on record, particularly various documents and also the encumbrance certificate.

6. The fact that Aanai Gounder was originally allotted 4.66 Acres of land is not disputed by both sides. The earlier document relied upon by the Sub Registrar relates to an extent of around 1.04 Acres, whereas, now the document sought to be registered relates to 1.57 Acres in respect of the same survey number. Aanai Gounder had 3.26 Acres in that survey numbers. Therefore, when there is a document to show that earlier title deeds of Kannaiyah has already been cancelled vide Document No.3582 of 2010, therefore, merely some documents are registered on the basis of the earlier settlement deed bearing No.2896/2010, the registration of the subsequent document cannot be refused. Therefore, the registering authority entering into the title issue cannot be encouraged. It is for the parties to establish their title in a competent civil court in the event any dispute arise. But the fact remains that Aanai Gounder had a larger extent of around 3.26 Acres of land. The petitioner is now dealing



W.P. No.20179 of 2024

WEB COPY

with only 1.57Acres in that survey number. In such view of the matter, the registering authority cannot, at this stage, refuse to register the document. In ***Subramani vs. The Sub Registrar, Rasipuram and others in W.P. No.11056 of 2024 Dated 26.04.2024***, this court has elaborately dealt with with regard to the powers of the Registrars to deal with title of the parties.

7. In such view of the matter, following the above decision, the refusal Check Slip of the 2nd respondent issued in Refusal No.RFL/Edappadi/4/2024 dated 31.05.2024, is quashed and there shall be a direction to the second respondent to register the document presented by the petitioner within a period of one week from the date of receipt of a copy of this order, if it is otherwise in order.

8. With the above direction, the writ petition is allowed. However, there is no order as to costs.

24.07.2024

Index : Yes / No
Neutral Citation : Yes / No
Asr



W.P. No.20179 of 2024

To

WEB COPY

1. The District Registrar (Salem West)
No.313, 3rd Floor
District Registration Office Campus
Salem Collectorate Building
Kottai Main Road, Salem - 636 001
2. The Sub Registrar
Edappadi Sub Registrar Office
Edappadi Post & Taluk
Salem - 637 101
3. The Government Pleader
High Court, Madras



WEB COPY



W.P. No.20179 of 2024

N.SATHISH KUMAR, J.

Asr

W.P.No.20179 of 2024

24.07.2024