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W.P.No.21151 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2024

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.21151 of 2024

Shahnaz Mustak

... Petitioner

VS.

1.The District Registrar,
District Registrar Office,
1st Floor, Chennai North,
Kuralagam, Chennai – 600108.

2.The Sub Registrar,
No.11, Davidson Street,
Sowcarpet, Chennai – 600001.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent pertaining to Refusal check slip; RFL/Sowcarpet/12/2024 dated 08.07.2024 and quash the same as illegal, arbitrary and non est in law and consequently direct the 2nd respondent to register the release deed dated 08.07.2024 and release the same within the time stipulated by this Court.

For Petitioner : Mr.Kumar



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For Respondents : Mr.B.Vijay
Additional Government Pleader

ORDER

The writ petition is filed challenging the order passed by the 2nd respondent in his Refusal Check Slip No.RFL/Sowcarpet/12/2024 dated 08.07.2024 refusing to register the Release Deed presented by the petitioner for registration on the ground that parent document produced by the petitioner was not registered in accordance with law.

2. According to the petitioner, his father Abdul Azeez Moosa along with his brothers purchased the property in Door No.1/27, New No.7, Baddu Sahib Street, Peddunaickenpet, George Town, Chennai under registered Sale Deed dated 19.02.1973. Thereafter, there was a oral partition between the father of the petitioner and his brothers and the property in question was allotted to petitioner's father Abdul Azeez Moosa. The Competent Authority has also issued Town Survey Patta for the subject property in the name of the petitioner's father.



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3. It is also stated that father of the petitioner had constructed a residential building and obtained electricity service connection, water and sewage connection from the Local Authorities in his name. The father of the petitioner died intestate on 05.02.2015 leaving behind the petitioner (son), his mother, brothers and sister. Thus, the legal heirs of Abdul Azeez Moosa entitled to absolute right over the subject property. The mother and two brothers of the petitioner executed a Release Deed releasing their 3/4th share in the subject property in favour of the petitioner on 08.07.2024 and the same was presented for registration before the 2nd respondent. The 2nd respondent refused to register the document and passed the impugned order on the ground that the memorandum of partition entered into between the petitioner's father Abdul Azeez Moosa and his brothers was not a registered document or a document which records earlier partition.

4. It is settled law that Registering Authority is not entitled to go into the question of title dispute between the parties. In this regard, it would be appropriate to refer to the decision of this Court in ***Subramani vs. Sub Registrar*** in W.P.No.11056 of 2024, dated 26.04.2024, wherein this Court relying on the earlier decision of the Apex Court in ***Satya Pal Anand vs.***



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State of M.P., reported in ***(2016) 10 SCC 767*** held that an enquiry into the title of the executant is beyond the powers of the Sub-Registrar.

5. In view of the settled law that Sub Registrar is not entitled to go into the question of title dispute, the 2nd respondent is not entitled to refuse registration of the present Release Deed by questioning the earlier partition entered into between the father of the petitioner and his brothers. Even assuming the partition relied on by the petitioner is not valid still as a children of one of the sharer, the executants are entitled to fraction of the share in the subject matter of property and atleast to that extent the Release Deed is valid. Therefore, it cannot be said the entire Release Deed is invalid and the same will not convey any title to the petitioner. In such circumstances, the refusal order passed by the 2nd respondent is not sustainable and the same is liable to be set aside.

6. In view of the above discussion, the impugned order passed by the 2nd respondent in RFL/Sowcarpet/12/2024 dated 08.07.2024 is set aside and the petitioner is directed to represent the papers to the 2nd respondent for registration and the 2nd respondent is directed to register the same, if it is



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otherwise in order.

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7. With the above directions, the Writ Petition stands allowed. No costs.

08.08.2024

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
dm

To

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1st Floor, Chennai North,
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2. The Sub Registrar,
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S.SOUNTHAR, J.

dm

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