



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.28322 of 2023
and W.M.P.No.27844 of 2023

M.Sekar

...

Petitioner

versus

1.The District Registrar,
Ariyalur District Registrar Office,
Ariyalur - 621 704.

2.The Sub Registrar,
Udayarpalayam Sub-Registrar Office,
Udayarpalayam,
Ariyalur District - 621 804.

...

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 of the impugned refusal check slip in RFL/Udayarpalayam/66/2023 dated 11.08.2023 passed by the second respondent quash the same and consequently direct the second respondent to register the Memorandum of Title Deeds presented for registration in the second respondent Sub-Registrar Office.

For Petitioner : Mr.M.Saravana Kumar

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader



ORDER

This Writ Petition has been filed challenging the refusal slip dated 11.08.2023 issued by the second respondent whereby he refused to register the Memorandum of Deposit of Title Deeds presented by the petitioner for registration.

2. The grievance of the petitioner is that he presented the Memorandum of Deposit of Title Deeds in respect of 3 cents of land along with the dwelling house, the same was refused to be registered on the ground that the preliminary decree in O.S.No.65 of 2014 has been obtained, wherein 1/3rd share has also been declared in favour of one Kulanthaivel.

3. It is the contention of the petitioner that the suit has been filed between the brothers. However, the Memorandum was registered in respect of the dwelling house where the petitioner resides, particularly in respect of 3 cents. Therefore, merely on the ground of rights declared in the preliminary decree, the refusal cannot be sustained in the eye of law.



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4. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents and perused the materials available on record.

5. No counter is filed. I have perused the preliminary decree produced before this Court. The suit has been filed for partition of the properties of a larger extent, namely Survey No.304/1P, measuring an extent of 1.00 ares i.e. 2.47 acres, Survey No.334/11, measuring an extent of 16.50 ares and Survey No.334/15, measuring an extent of 30.00 ares, wherein declaration of 1/3rd share to the plaintiff Kulanthaivel, was ordered in the above suit.

6. Therefore, this Court is of the view that when the larger extent of shares of 1/3rd is declared merely a Memorandum has been executed in respect of 3 cents where the petitioner is dwelling, the preliminary decree cannot be put against him. Even in final decree proceedings, the parties can very well work their remedies, and direct the mortgage amount has to be discharged only by the writ petitioner. Such being the position, the refusal slip cannot be sustained in the eye of law and the same has to be allowed.



7. In the result, this Writ Petition is allowed and the impugned order of refusal slip dated 11.08.2023 stands quashed and the second respondent is directed to register the document presented by the petitioner for registration, if it is otherwise in order, as per law, within a period of one week from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

14.06.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

sri



To

W.P.No.28322 of 2017
and W.M.P.No.27844 of 2017



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Ariyalur District Registrar Office,
Ariyalur - 621 704.
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Udayarpalayam Sub-Registrar Office,
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N.SATHISH KUMAR, J.

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