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W.P. No.30818 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 21.10.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE S.SOUNTHAR**

**W.P. No.30818 of 2024**

Manoj Kumar

... Petitioner

Vs.

1.The District Registrar,  
Virudhachalam, Virudhachalam District.

2.The Sub-Registrar,  
Sirupakkam, Virudhachalam District.

... 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 order dated 16.04.2024 vide proceedings in No.RFL/Sirupakkam/33/2024 on the file of 2<sup>nd</sup> Respondent and quash the same and consequently direct the 2<sup>nd</sup> Respondent to register and release the settlement deed dated 02.04.2024 to the petitioner within stipulated time.

For Petitioner

: Mr.K.Myilsamy

For Respondents

: Mr.M.Shahjahan

Special Government Pleader



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## **ORDER**

**WEB COPY** Aggrieved by the impugned refusal order issued by the 2nd Respondent refusing to register the settlement deed, the petitioner has come before this Court.

2. It is the case of the petitioner that 2 acres and 72 cents comprised in Survey No.206/1 situated at Rettakurchi Village, Tittagudi Taluk, Cuddalore District belongs to the petitioner's joint family. The petitioner's father Muthusamy Udayar sold the property in favour of one Veeramuthupadayatchi in Document No.535 of 1996. The said document was executed by the petitioner's father for himself and also as guardian of his minor children namely, the petitioner, Manivel and Malathy. Subsequently, the said Veeramuthupadayatchi sold the property to one Malliga in Document No.294 of 2001. The said Malliga settled the property in favour of her son Arunkumar in Document No.719. The petitioner herein claiming 1/4th share in the joint family property filed a Suit in O.S.No.42 of 2018 on the file of the Additional District Munsif Court, Tittagudi against the petitioner's father, Muthusamy Udayar and his siblings Manivel and Malathi. The above mentioned Malathi was also arrayed as one of the party to the Suit. In the said Suit, an ex-parte preliminary decree was passed on 27.06.2019 declaring 1/4th share to the petitioner in the suit property. Later the



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petitioner filed a final decree petition in I.A.No.4 of 2020 in O.S.No.42 of 2018, on the file of Additional District Munsif Court, Tittagudi. The said final decree proceedings was compromised between the petitioner and his family members as seen from the joint compromise memo filed in the typed set of papers. The petitioner's father and his siblings received Rs.1,00,000/- from the petitioner and affirmed the petitioner's absolute right over the subject property. Thus, the petitioner is claiming absolute right over the subject property.

3. Now, he executed a settlement deed in favour of his wife Ilakiya and presented the same for registration. The 2nd Respondent refused registration mainly on the ground that the petitioner was granted preliminary decree only for 1/4th share in the subject property and the documents executed by the petitioner's father for himself and also on behalf of the minor petitioner and his siblings was not at all cancelled and therefore as on today the above mentioned Malliga's son Arunkumar has right over the property as per the last entry in the encumbrance certificate and accordingly the petitioner does not have right to claim absolute right over the property in terms of the settlement.

4. Admittedly, the petitioner filed O.S.No.42 of 2018 claiming 1/4th share in the family property. A preliminary decree was passed declaring the petitioner/



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plaintiff's 1/4th share over the subject property. Subsequently, in the final decree proceedings, the petitioner's father and his siblings entered into a compromise and the petitioner's absolute right over the subject property was affirmed. The petitioner's father in his capacity as guardian sold the entire property in favour of Veeramuthupadayatchi as early as 1996. After the said sale, the petitioner's father and his siblings are not entitled to a compromise affirming the absolute right of the petitioner over the property without challenging the 1996 sale in the manner known to law. As far as the petitioner's 1/4<sup>th</sup> share is concerned, he has obtained a preliminary decree for partition in O.S.No.42 of 2018 however the remaining 3/4<sup>th</sup> share in the property is concerned, the petitioner's father and his sibling who have not questioned the 1996 sale are not entitled to a compromise the lis, affirming the absolute right of the petitioner over the subject property.

5. It is brought to the notice of this Court that earlier the petitioner attempted to register the Lok Adalat award passed in final decree proceedings and the same was refused on the ground after selling the property to 3<sup>rd</sup> parties the petitioner's father could not enter into compromise affirming the petitioner's absolute title over the subject property. The said order was challenged by the petitioner in W.P.No.17093 of 2022 and the same was dismissed by this Court holding that the Lok Adalat award obtained by the petitioner would not affect



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the rights of the 3<sup>rd</sup> party purchasers. In fact this Court while dismissing the writ petition observed that Lok Adalat award obtained by the petitioner in the final decree proceeding was non-est in the eye of law.

6. In view of the same, the petitioner does not have absolute right over the subject property. If at all, he can claim only his one-fourth share. Under such circumstances, the settlement deed executed by the petitioner as if he is the absolute owner of the subject property cannot be directed to be registered by the Respondent. The 2<sup>nd</sup> Respondent is justified in refusing registration on the ground that as per the last entry in the Encumbrance Certificate the property belonged to the above said Arunkumar. I do not find any reason to interfere with the order passed by the 2<sup>nd</sup> Respondent. Accordingly, the writ petition is dismissed. However, dismissal of the writ petition will not affect the right of the petitioner insofar as his 1/4<sup>th</sup> share declared by the Civil Court. No costs.

**21.10.2024**

Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

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**S.SOUNTHAR, J.**

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To:

- 1.The District Registrar,  
Virudhachalam, Virudhachalam District.
- 2.The Sub-Registrar,  
Sirupakkam, Virudhachalam District.

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