



W.P.No.33137 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2024

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

W.P.No.33137 of 2023

... Petitioner

S.K.Vaithyanathan

Vs.

1. The Sub Registrar,
Sub Registrar Office,
Kurinjipaadi,
Cuddalore District.

2. M.Kuppusamy

3. K.Dhandapani

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the refusal check slip Number RFL / Kurinjipadi / 37 / 2023 dated 25.09.2023 issued by the 1st respondent and to quash the same as unlawful and consequently direct him to accept the Release Deed dated 25.09.2023 presented by the petitioner and others for registration.



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For Petitioner : Mr.Sesubalan Raja
For R1 : Mr.U.Baranidharan
Additional Government Pleader
For R2 : Tapal returned
Unserved (deceased).
For R3 : No appearance

ORDER

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the refusal check slip Number RFL / Kurinjipadi / 37 / 2023 dated 25.09.2023 issued by the first respondent and to quash the same and to direct him to accept the Release Deed dated 25.09.2023 presented by the petitioner and others for registration.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the first respondent and perused the materials available on record.



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3. Learned counsel for the petitioner submitted that the subject property belongs to the petitioner's father. The second respondent who is the owner of the property which is adjacent to the petitioner's property, created a settlement in favour of his son, the third respondent herein. Taking advantage of the same, the private respondents are attempting to disturb the possession of the petitioner's family property. Hence, the petitioner's brother filed a suit in O.S.No.433 of 2005 on the file of the District Munsif Court, Cuddalore seeking declaration and permanent injunction against the private respondents. The said suit was decreed on 20.09.2006 in favour of the petitioner's family and against which, the respondents have also preferred an appeal in A.S.No.87 of 2006 on the file of the Additional Sub Court, Cuddalore. The appellate court dismissed the appeal filed by the private respondents and confirmed the judgment and decree passed by the trial court. Subsequently, when the petitioner, presented the document for registration, the revenue officials without considering the document, ownership and judgment and decree passed by the trial court, refused to register the document and passed the refusal check slip stating that challenging the appellate Court decree, the



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private respondents have filed the second appeal before this Court, which is pending in C.M.P.No.122841/2023 SASR.No.122838 of 2023. He further submitted that the suit was decreed in the year 2006 and the appeal filed by the respondents was dismissed in the year 2009 and the document presented for registration on 25.09.2023. Though there is no second appeal filed by the private respondents, the revenue officials are refused to register the document after 12 years.

4. The petitioner has filed the memo stating that the second respondent died and he stated that only after filing this writ petition, he came to know that the second respondent was no more. Hence, the writ petition is dismissed as against the second respondent.

5. Though notice served on the third respondent and he appeared through counsel on earlier occasion, however, today when the matter is taken up for hearing, none appeared on behalf of the third respondent.



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6. Learned Additional Government Pleader appearing for the official respondent filed the counter stating that the petitioner presented release deed before the first respondent for the suit property. In view of pendency of Second Appeal in S.A.S.R.No.122838 of 2023 at SR stage before this Court, the first respondent issued the refusal check slip.

7. It is stated that the second appeal is at SR stage and the same has not been registered till date and no stay has been granted by this Court. Hence, no legal impediment would be caused by registering the document presented by the petitioner.

8. In view of the same, the impugned refusal check slip passed by the first respondent is quashed. The first respondent is directed to register the document presented by the petitioner, if the document is otherwise in order by complying with the Rules under Registration Act and Indian Stamp Act. The abovesaid exercise shall be completed within a period of four weeks from the date of receipt of copy of this order.



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9. With the abovesaid direction, the Writ Petition is disposed of.

There shall be no order as to costs.

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

The Sub Registrar,
Sub Registrar Office,
Kurinjipaadi,
Cuddalore District.



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P.VELMURUGAN, J.

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