



W.P(MD)No.6768 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.6768 of 2024

Sivasubramonia Prasad

... Petitioner

Vs.

1.The Sub Registrar,
Thuckalay Sub Registrar Office,
Nagercoil,
Kanyakumari District.

2.The Branch Manager,
Indian Overseas Bank,
Padmanabhapuram Branch,
Nagercoil,
Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of impugned refusal cheque slip No.RFL/Thuckalay/25/2024 issued by the 1st respondent and quash the same and consequently directing the 1st respondent to receive and register the settlement deed dated 09.02.2024 executed by the petitioner in the favour of the petitioners son namely Gireesa Prasad in accordance with law and within the stipulated period.

For Petitioner : Mrs.S.Mahalakshmi

For Respondents : Mr.B.Saravanan
Additional Government Pleader for R1
: Mr.N.Dilip Kumar for R2



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ORDER

Heard both sides.

2. The petitioner is a practicing lawyer. He has executed the petition mentioned settlement deed in favour of his second son. The document was presented for registration. Registration was refused. The ground was that the parent document has not been produced. Challenging the same, the present writ petition came to be filed.

3. When the matter was taken up for hearing, the learned standing counsel for the bank submitted that the petitioner had availed loan from the second respondent and committed default. The second respondent had initiated recovery proceedings. The decree was passed in favour of the bank. The first appeal filed by the petitioner has been dismissed also. The original document deposited by the petitioner at the time of obtaining loan is now with the District Court. It is not in dispute that only a money decree has been passed against the petitioner. It is not as if the mortgage has been foreclosed. It is not as if the property has been sold. Therefore, the petitioner cannot be prevented from pursuing with the petition mentioned transaction. The rights of the settlee is of-course subject to the rights of the second respondent bank. It is always open to the second respondent bank to proceed against the property in question. This



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need not come in the way of registering the settlement deed.

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4. In this view of the matter, the impugned refusal check slip is set aside.

The petitioner is permitted to present the document. It shall be received, registered and released subject to fulfilment of other usual formalities. The Writ Petition is allowed. No costs.

04.04.2024

Index : Yes / No

Internet : Yes/ No

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To

The Sub Registrar,
Thuckalay Sub Registrar Office,
Nagercoil,
Kanyakumari District.



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G.R.SWAMINATHAN, J.

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