



W.P(MD)No.9345 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.06.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.9345 of 2024

1.J.Jeyaganga

2.J.Jeyagayatri

Represented through their Power Agent,
Jeyakumar.

... Petitioners

Vs.

The Sub-Registrar,
Kalakadu Sub Registrar Office,
Kalakadu,
Tirunelveli District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to impugned Refusal check slip in Refusal Number RFL/Kalakadu/6/2024 dated 14.03.2024 issued by the respondent and quash the same as illegal and unconstitutional, consequently direct the respondent to forthwith register the sale deed without insisting the production of original documents in Doc. No.2399/2011 and 304/2011 within the time frame as fixed by this Court.



W.P(MD)No.9345 of 2024

For Petitioners : Mr.Gauthasarathy

For Respondent : Mr.B.Saravanan,
Addl. Government Pleader.

ORDER

Heard both sides.

2.The petition mentioned property belongs to Jeyaganga and Jeyagayatri. They had authorised their father / Jeyakumar to sell the property in favour of their mother / Rama. Sale deed dated 14.03.2024 was presented for registration. The registering authority declined to entertain the document for two reasons. The parent document as well as the original power of attorney were not produced. Challenging the refusal check slip, the present writ petition came to be filed.

3.The learned counsel for the petitioners points out that the parent deed as well as the original power of attorney were handed over to one Ramesh Kumar. Sale agreement was entered into with the said Ramesh Kumar as early as on 01.03.2012. It was registered as Document No.358/2012. The petitioners filed O.S.No.389 of 2022 before the III Additional District Court, Tirunelveli



W.P(MD)No.9345 of 2024

and obtained declaration against the said Ramesh Kumar on 25.07.2023. Copy of the judgment and decree have been enclosed in the typed set of papers. It is seen therefrom that the power of attorney was marked as Ex.A3. The specific stand of the petitioners is that the original document is with the said Ramesh Kumar. It can be seen from the averments set out in the said judgment that the parent deed was handed over to Ramesh Kumar.

4.It is well settled that subsistence of a mortgage or a sale agreement is not a bar for alienating the property. It is a well settled proposition. Since I am satisfied by going through judgment dated 25.07.2023 made in O.S.No.389 of 2022 on the file of III Additional District Court, Tirunelveli, there is no bar for the petitioners to re-present the document.

5.In this view of the matter, the impugned refusal check slip is quashed. The petition mentioned document can be re-presented before the registering authority. The registering authority will satisfy himself by examining Jeyaganga as well as Jeyagayatri that the power issued in favour of their father has not been revoked. Once Jeyaganga and Jeyagayatri make their position clear, the document in question shall be registered and released subject to fulfilment of other usual formalities.



W.P(MD)No.9345 of 2024

WEB COPY

6.This writ petition is allowed accordingly. No costs.

04.06.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias

To:-

The Sub-Registrar,
Kalakadu Sub Registrar Office,
Kalakadu,
Tirunelveli District.



WEB COPY



W.P(MD)No.9345 of 2024



WEB COPY



W.P(MD)No.9345 of 2024

G.R.SWAMINATHAN, J.

ias

W.P(MD)No.9345 of 2024

04.06.2024
(2/2)