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W.P.(MD)NO.9080 OF 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.07.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.9080 of 2024 and

W.M.P.(MD)No.8276 of 2024

Karpagavalli

... Petitioner

Vs.

1. The District Registrar,
District Registration Office,
Ramanathapuram,
Ramanathapuram District.

2. The Sub Registrar,
Sub Registrar Office,
Ramanathapuram,
Ramanathapuram District.

... 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 impugned refusal check slip dated 19.03.2024 on the file of the second respondent and quash the same as illegal and consequently for a direction directing the respondent to register the settlement deed dated 19.03.2024 executed / presented by the petitioner within the time period stipulated by this Court.

For Petitioner : Mr.M.Mahaboob Fazil

For R-1 & R-2 : Mrs.D.Farjana Ghoushia,
Special Government Pleader.

* * *



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ORDER

Heard both sides.

2. The writ petitioner executed the petition mentioned settlement deed in favour of her children. Citing the execution of the earlier documents by the petitioner's husband Raghunatha Sethupathy, registration was refused. According to the registering authority, the petitioner's husband had already executed document Nos.609/2009, 1635/2009 and 2293/2012. Challenging the said refusal check slip, the present writ petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.

4. The learned Special Government Pleader submitted that one Arjunan filed a protest petition in this regard. She pointed out that there cannot be double registration in respect of the same property. She called upon this Court to dismiss this writ petition.



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5. I carefully considered the rival contentions and went through the materials on record.

6. In normal circumstances, I would have definitely sustained the objection raised by the learned Special Government Pleader. But in this case, the facts are slightly different. The petitioner and her husband Raghunatha Sethupathy were running a restaurant and the case of the petitioner is that certain items of properties were purchased out of the profits of business. The petitioner had filed partition suit in O.S.No.34 of 2007 on the file of the Additional District Judge, Ramanathapuram. Raghunatha Sethupathy figured as the first defendant in the suit. The petitioner filed the suit along with her minor children. The petitioner sought the relief of partition. The suit was decreed and preliminary decree was passed on 25.09.2009. Subsequently, the final decree petition was filed and it was also allowed. The documents executed by Raghunatha Sethupathy are of the year 2009. The suit was filed in the year 2007 itself. Therefore, the execution of the documents by the petitioner's husband was subject to the outcome of the partition suit. The petitioner was therefore entitled to alienate her half share in the property.



In this view of the matter, the impugned refusal check slip is quashed.

This is not a case of double registration. The petitioner wants to settle her share in interest in the petition mentioned property. The petitioner is permitted to re-present the settlement deed. It shall be registered and released by the second respondent subject to fulfilment of the other usual formalities. Since in this writ petition, neither Arjunan nor any other third party have been impleaded, this direction to register the settlement deed will not take away their rights or claims. If Arjunan or any other third party raise any dispute, it will have to be independently considered de hors the order passed in this writ petition. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

02.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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To:

1. The District Registrar,
District Registration Office,
Ramanathapuram,
Ramanathapuram District.
2. The Sub Registrar,
Sub Registrar Office,
Ramanathapuram,
Ramanathapuram District.



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G.R.SWAMINATHAN,J.

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