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W.P.(MD)NO.9964 OF 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.9964 of 2024

Venkatesan

... Petitioner

Vs.

The Sub Registrar,
Bodinayakkanur Sub Registrar Office,
Theni District.

... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for records relating to the impugned refusal check slip Refusal Number:RFL/Bodinayakkanur/13/2024 dated 15.04.2024 and quash the same as illegal and consequently direct the respondent to register the partition deed dated 24.01.2024 within the period that may be stipulated by this Court.

For Petitioner : Mr. S.Srinivasa Raghavan,
for Mr.M.Jerin Mathew.

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

* * *



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ORDER

Heard both sides.

2. A deed of partition was executed on 11.01.2024 among the legal heirs of Suruliyandi Chettiar. Registration was refused by questioning the title of the executants. Challenging the impugned refusal check slip, the present writ petition came to be filed.

3. The learned Additional Government Pleader submits that on a perusal of the encumbrance register, it is seen that on 04.12.1970 Arunachal Nadar, S/o.Ponnusamy Nadar executed a deed of mortgage (document No.2602/1970) in favour of Suruliyandi Chettiar mortgaging the petition mentioned property. The issue raised by the registering authority is that Suruliyandi Chettiar was only a mortgagee. There was no way patta could have been issued in the name of the executant. The learned Additional Government Pleader called upon this Court to sustain the impugned order and dismiss the writ petition.

4. I am not persuaded by the said objection. As rightly pointed out by the learned counsel appearing for the petitioner, there is no rival



claim or cause of action raised by Arunachala Nadar or his decendents.

While the executants plead ignorance, even according to the respondent, the mortgage is of the year 1970. More than 54 years elapsed. The mortgagor would have lost the right of redemption. Be that as it may, old patta No.8429 reflects the names of the executants including the writ petitioner herein Venkatesan. It is not open to the registering authority to question the title. When patta has been issued, while it may not bind the private parties, the Governmental authorities cannot question their own record. The respondent herein exceeded the jurisdiction conferred on him. The impugned check slip is quashed. The petitioner is permitted to re-present the document and it shall be registered and released. This writ petition stands allowed. No costs.

11.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN,J.

PMU

To:

The Sub Registrar,
Bodinayakkanur Sub Registrar Office,
Theni District.

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