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W.P.(MD)NO.10793 OF 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 05.06.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.10793 of 2024

A.Krishnamoorthy

... Petitioner

Vs.

1. The Sub Registrar,
Registration Department,
Musiri Sub Registrar Office,
Tiruchirappalli District.

2. Murugan @ Murugayan

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned check slip in RFL/Musiri/79/2024 dated 17.04.2024 issued by the first respondent, quash the same and consequently direct the first respondent to receive the certified copy of the previous partition deed in Doc.No.618/1999 dated 18.04.1996 on the file of the first respondent and to register the sale deed dated 17.04.2024, release the document presented by the petitioner as per the Registration Act 1908, within the time frame.

For Petitioner : Mr.A.N.Ramanathan

For R-1 : Mr.B.Saravanan,
Additional Government Pleader.

* * *

**ORDER**

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Heard the learned counsel appearing for the writ petitioner and the learned Additional Government Pleader appearing for the first respondent.

2. Muthammal is the petitioner's mother. She was born with two brothers, namely, Rasu and Natarajan. There was partition among Rasu, Natarajan and Muthammal on 18.04.1996. It is a registered partition deed. All the three are no more. The petitioner is one of the sons of Muthammal. The property allotted to Muthammal was subdivided and patta was also issued. The petitioner is one of the five legal heirs wants to alienate $\frac{3}{5}$ th undivided share in the property. The sale deed dated 17.04.2024 was presented for registration before the first respondent. The case of the petitioner is that the parent document, namely, the partition deed dated 18.04.1996 is with the second respondent who is the son of the petitioner's maternal uncle.

3. On that ground, the impugned refusal check slip was issued. A learned Judge of this Court in Sivanadiyan's case had categorically



held that the insistence and production of the parent document is illegal.

Of course this proposition is applied depending on the case facts. In the case on hand, I am more than satisfied that the petitioner is having title and the impugned sale deed alienating 3/5th undivided share in the property is very much in order. The petitioner has made a specific averment before this Court that the original parent document is with the second respondent. In this case, the original document was given to Natarajan and following his demise, it is now with Murugan @ Murugayan, the second respondent herein. The petitioner has shown his bona fides by impleading Murugan @ Murugayan. He could not be served. I am of the view that this Court need not wait for completion of service. In this view of the matter, the impugned refusal check slip is quashed. The petitioner is permitted to re-present the document. It shall be received and registered subject to fulfilment of the other usual formalities. This writ petition stands allowed. No costs.

05.06.2024

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



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To:

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