



W.P(MD)No.12983 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.12983 of 2024

Theresa

... Petitioner

Vs.

1.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 028.

2.District Registrar (Admin)
District Registrar Office,
Sivagangai.

3.The Sub Registrar,
Sivagangai Joint-II,
Melur Road,
Sivagangai-630 561.

... 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 pertaining to the order passed by the 2nd respondent herein in his proceedings vide O.Mu.No.1884/A1/2024 dated 02.05.2024 and quash the same as illegal and consequently direct the 3rd respondent to register the settlement deed dated 05.04.2024 executed by the petitioner in favour of her daughter without insisting NOC within a time that may be stipulated by this Court.



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For Petitioner : Mr.M.Naren Kumar
For Respondents : Mr.B.Saravanan
Additional Government Pleader

ORDER

Heard both sides.

2. The petitioner wants to settle the petition mentioned property in favour of her daughter. When the settlement deed was presented for registration, the registering authority took the view that since there is a subsistence mortgage, registration cannot be accepted. Challenging the refusal check slip issued by the third respondent, the present writ petition came to be filed.

3. The issue raised in the writ petition is no longer *res integra*. The Hon'ble Division Bench in W.P.No.674 of 2020 (N.Ramayee Vs. The Sub Registrar) dated 05.11.2020 had held that subsistence of the mortgage will not take away the right of the title holder to engage in transactions.

4. Respectfully applying the ratio laid down in the aforesaid decision, the impugned refusal check slip is quashed. The petitioner is permitted to re-present the document. The registering authority shall register the same and release it subject to fulfilment of other usual formalities.



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5. The Writ Petition is allowed. No costs.

19.06.2024

Index : Yes / No

Internet : Yes/ No

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