



W.P(MD)No.16576 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD)No.16576 of 2023

and

W.M.P.(MD)No.13852 of 2023

1.S.V.Subbiah
2.S.V.Manirasu

... Petitioners

Vs.

1.The District Registrar,
Department of Registration,
Deputy Inspector General of Registration (Cadre),
Tirunelveli District, Tirunelveli.

2.The Sub Registrar,
Office of the Sub Registrar,
Radhapuram, 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, to call for the impugned order rejecting the registration of the document in the nature of partition between the petitioners vide TP/152750803/2023, dated 09.06.2023 passed by the 2nd respondent and subsequently, to set aside the same as illegal and erroneous and consequently, to direct him to register the said deed of partition between the petitioners forthwith without any further delay.

For Petitioners : Mr.S.Palanivelayutham

For Respondent : Mr.M.Siddharthan,

Additional Government Pleader



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ORDER

Challenge has been made to the refusal check slip issued by the 2nd respondent dated 09.06.2023.

2. According to the petitioners, the properties in Survey Nos.366/1 and 367/1B2B1A belonged to the father of the petitioners. During his life time, he executed a Will in favour of the petitioners in respect of the properties in question. After his death, the petitioners were jointly in possession and enjoyment of the properties in question. After several years, they partitioned the properties in question between themselves and presented the partition deed for registration. However, it was refused by the 2nd respondent, vide refusal check slip dated 09.06.2023, stating that in earlier document registered in the year 2019, already a road has been created, therefore, this document falls within the ambit of Section 22-A(2) of the Registration Act. Therefore, challenging the same, the petitioner has filed this Writ Petition.

3. At the outset, this Court is of the view that the impugned refusal check slip issued by the 2nd respondent dated 09.06.2023 is liable to be quashed for the simple reason that even if any house site is already registered, there is



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no bar under Section 22-A of the Registration Act. Therefore, merely because some lands have been already registered by forming a road in the year 2019, the same cannot be a ground for refusing the registration of the partition deed effected at a later point of time. Further, the very proviso itself permits registration of such property, which has already been registered. In such view of the matter, the impugned refusal check slip dated 09.06.2023 is quashed. The 2nd respondent is directed to register the document presented by the petitioners within a period of one week from the date of receipt of a copy of this order.

5. With the above direction, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

30.08.2024

(2/2)

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

Yuva

To

1. The District Registrar,
Department of Registration,
Deputy Inspector General of Registration (Cadre),
Tirunelveli District, Tirunelveli.



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N.SATHISH KUMAR, J

Yuva

2.The Sub Registrar,
Office of the Sub Registrar,
Radhapuram, Tirunelveli District.

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