



WP(MD). No.20250 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 27/08/2024

CORAM

The Hon`ble Mr.Justice N.SATHISH KUMAR

WP(MD). No.20250 of 2024

Muthaiah .S

... Petitioner

Vs

**1. The District Registrar,
Palayamkottai Registration District (Admin),
Collectorate Campus,
Kokirakulam,
Tirunelveli District..**

**2. The Sub Registrar,
Kayathar,
Thoothukudi District..**

... 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 on the file of the 2nd Respondent in connection with the impugned order of refusal to register the Settlement deed vide his refusal Check Slip No. RFL / Kayathar / 25/2023 dated 07.09.2023 and consequential impugned order on appeal by the 1st respondent vide his proceedings in Na.Ka.No. 8318 / A1/ 2023 dated 04.10.2023 and quash the both as illegal, ultravires and arbitrary and consequently direct the 2nd



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Respondent to register the Settlement Deed dated 30.08.2023 registered in temporary registration No. TP / 158574506/2023 within the time limit that may be fixed by this Court.

For Petitioner : Mr.K.Gurunathan
For Respondents : Mr.M.Siddharthan
Additional Government Pleader

ORDER

With the consent of both sides, this Writ Petition is taken up for final disposal at the admission stage itself.

2.Challenging the impugned refusal slip issued by the 2nd respondent dated 07.09.2023 and the consequential impugned order of the 1st respondent dated 04.10.2023 refusing to register the settlement deed presented by the petitioner for registration, the present Writ Petition has been filed.

3. Heard learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents R1 & R2 and perused the materials available on record.



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4. The case of the petitioner is that the subject property was the ancestral property of the petitioner and his parents settled the property in favour of the petitioner by a settlement. While so, when the petitioner intended to settle the property in favour of his son and executed a settlement deed and presented the same for registration, the same was refused to be registered by the respondents stating non availability of the original documents. Challenging the same the present Writ Petition.

5. It is the contention of the petitioner that the 2nd respondent cannot pass such refusal and hence, he preferred an appeal before the 1st respondent, which was also rejected. Hence, seeks a direction to the respondents to register the settlement deed presented by the petitioner.

6. It is relevant to note that this Court in the case of ***Federal Bank v Sub Registrar***, reported in ***2023 (2) CTC 289*** has held that Sub Rule XX of Rule 162 has no statutory backing. The said order has been followed by a Division Bench of this Court in the case of ***M. Ariyanatchi v Inspector General*** made in ***W.A.(MD).No. 856 of 2023, dated 27.06.2023***, wherein, Division Bench of this Court has held that, for



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instance, the original document is held by one co-owner, the Sub-Registrar can always take an undertaking or a declaration in the form of an affidavit from the vendors to the effect that the original document is with the said person and register the document. Hence, the Sub-Registrar cannot refuse to register a document merely because the original parent deed has not been produced. In such view of the matter, the impugned refusal slip has to be set aside.

7. Accordingly, this Writ Petition is allowed and the impugned refusal check slip dated 07.09.2023 and 04.10.2023 are quashed and the 2nd respondent is directed to register the settlement deed presented by the petitioner within a period of fifteen days from the date of receipt of a copy of this order. No costs.

27.08.2024

Index : Yes/No
NCC : Yes/No

RR

Office to Note: Original documents shall be returned after retaining a photocopy of the same.

B/o.RR



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TO
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N.SATHISH KUMAR,J

**ORDER
IN
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