



W.P.(MD)No.22899 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.22899 of 2022

Palanichamy

... Petitioner

versus

1. The Inspector General of Registration,
Door No.100,
Santhome High Road,
Foreshore Estate,
Pattinapakkam,
Chennai – 600 028.

2. The Joint Sub Registrar No.2,
Tenkasi.

.... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned refusal check slip in RFL / Joint Sub Registrar No.2, Tenkasi / 66 / 2022 dated 25.08.2022 passed by the second respondent and quash the same and consequently, directing him to register the settlement deed dated 07.07.2022 executed by the petitioner in favour of his daughter.

For Petitioner : Mr.J.Barathan

For Respondents : Mr.P.Subbaraj,
Special Government Pleader



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ORDER

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This writ petition has been filed for issuance of a writ of certiorarified mandamus to call for the records pertaining to the impugned refusal check slip issued by the second respondent, in RFL / Joint Sub Registrar No.2, Tenkasi / 66 / 2022 dated 25.08.2022, quash the same and consequently, direct the second respondent to register the settlement deed dated 07.07.2022 executed by the petitioner in favour of his daughter.

2. The petitioner claims that he has executed a settlement deed dated 07.07.2022 in favour of his daughter. When he presented the settlement deed, dated 07.07.2022, before the second respondent, the same was not registered by the second respondent on the grounds that the original partition deed has not been produced; that no partition was effected among the legal heirs of the petitioner's father; that the suit filed for partition in O.S.No.94 of 2005 has not been decreed and that the encumbrance certificate has not been produced from the year 1969. Challenging the same, the present writ petition has been filed.

3. When other legal heirs have no issue with the regard to the execution of partition deed and the suit filed by other legal heirs came to be dismissed for



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default and that has not been restored thereafter and they have no objection in this regard, the second respondent cannot step into the shoes of other co-owners. Further, the second respondent cannot decide the rights of parties, particularly, when there is no issue raised in front of him.

4. As far as the parent title deed and partition deed are concerned, normally, the original deeds will be in the custody of elder members of the family and certified copies of the deeds will be in the custody of other co-owners. Therefore, insisting on original parent title deeds has been deprecated by this Court.

5. This Court, in ***The Federal Bank Limited v. Sub-Registrar, Pollachi & Others***, in W.P.No.2758 of 2023, dated 08.02.2023, held that insisting on original document is not at all required any further. Therefore, the act of the second respondent in refusing to register the settlement deed executed by the petitioner is not correct.

6. Further, insisting on encumbrance certificate from the year 1969 from the petitioner itself is nothing but clear abuse of process of law. If at all the



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second respondent wants to verify the documents, he can verify the same with their own records instead of insisting on the parties to produce encumbrance certificate for several years. That apart, the suit filed for partition has not been decreed is not the concern of the Sub Registrar.

7. The second respondent has filed a counter affidavit justifying his action. However, this Court is of the view that the Sub Registrar cannot assume the role of a Civil Court and also cannot enter into the title dispute.

8. Therefore, the impugned refusal check slip dated 25.08.2022 issued by the second respondent is quashed and the second respondent is directed to register the settlement deed dated 07.07.2022 executed by the petitioner in favour of his daughter, within a period of one week from the date of receipt of a copy of this order.

9. Accordingly, this writ petition is allowed. No costs.

22.08.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No.
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N.SATHISH KUMAR, J.

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