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W.P.(MD)No.22068 of 2024



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.09.2024

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THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.22068 of 2024

1.K.Mariammal

2.J.Jeba Rajasingh

... Petitioners

Vs.

The Sub Registrar,
Kayathar,
Thoothukudi.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned refusal check slip in RFL/Kayathar/19/2024 dated 09.09.2024 and quash the same and consequently direct the respondent to register the sale deed dated 09.09.2024 executed by the first petitioner in favour of the second respondent within the time fixed by this Court.

For Petitioners : Mr.H.Arumugam

For Respondent : Mr.M.Siddharthan

Additional Government Pleader

ORDER

This writ petition has been filed challenging the refusal check slip issued by the respondent in RFL/Kayathar/19/2024 dated 09.09.2024 and for a



consequential direction to the respondent to register the document executed by the first petitioner in favour of the second petitioner.

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2.Mr.M.Siddharthan, learned Additional Government Pleader, takes notice for the respondent. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

3.The father of the first petitioner is the absolute owner of the subject property. He died intestate leaving behind his wife, two daughters and two sons. Thereafter, the mother of the first petitioner also died. The brothers and sister of the first petitioner had not cooperated for effecting partition in the subject property. Hence, the first petitioner executed a sale deed in favour of the second petitioner in respect of her undivided $\frac{1}{4}$ share in the subject property. When the said sale deed was presented for registration, the same was refused to be registered on the ground that a deed of partition was already registered in respect of the entire property.

4.The learned counsel for the petitioners would mainly contend that the property originally owned by the father of the first petitioner, namely Krishna Thevar, who died on 29.01.2016 leaving behind his wife and his two daughters and two sons. The mother of the first petitioner also died leaving behind her



children. The petitioner is a class-I legal heir and she is entitled to 1/4 share in the subject property. When that being so, leaving the petitioner alone, the other legal heirs of said Krishna Thevar had entered into a partition on 15.04.2022 and the said partition will not bind on the petitioner. Further, there is no reference in the partition deed as to why the first petitioner was excluded in the partition. Therefore, according to the first petitioner, she is entitled to deal with her share in the subject property as the said partition deed will not bind on the first petitioner.

5.The learned Additional Government Pleader for the respondent submitted that the refusal slip has been issued on account of the partition deed already registered in respect of the subject property.

6.Heard the learned counsel appearing on either side and perused the materials placed on record.

7.The first petitioner had executed a sale deed in respect of her undivided 1/4 share in the subject property. The same was refused to be registered citing the earlier partition deed registered in respect of the subject property. Merely because, the first petitioner was not made as a party in the earlier partition deed, the right of the first petitioner to deal with the property in respect of her share as



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one of the co-owners of the subject property will not be taken away, till the right of the first petitioner is abandoned or she relinquished her share in the subject property in the manner known to law. As long as there is no material placed before this Court to show that the first petitioner has relinquished her share in the subject property legally, she is entitled to deal with the property.

8.In such view of the matter, the refusal check slip issued by the respondent in RFL/Kayathar/19/2024 dated 09.09.2024 stands quashed and this writ petition is allowed. The respondent is directed to register the document presented by the first petitioner within a period of one week from the date of receipt of a copy of this order. It is made clear that the right of absolute title will always subject to the establishment of the rights of the parties concerned before the competent civil Court. No costs.

18.09.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
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To

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Kayathar,
Thoothukudi.



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N.SATHISH KUMAR, J.

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