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W.P.(MD)NO.26639 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.07.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.26639 of 2023

Palaniyammal

... Petitioner

Vs.

The Joint Sub-Registrar-II,
Palani, Dindigul District.

... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the respondent in refusal No.RFL/2 எண் இணை சார்பதிவாளர் பழனி/76/2023 dated 26.10.2023 and quash the same as illegal, consequently direct the respondent to register the settlement deed dated 25.10.2023 executed by the petitioner for registration in respect of the properties with an extent of 46.5 cents comprised in survey Nos.310/2, 311/1A and 311/1B a house site with an extent of 2180 sq.ft. of house site in plot No.2 comprised in the layout formed in survey Nos.415/1A to 1H, a house site with an extent of 2400 sq.ft. In plot No.10 comprised in the layout formed in survey Nos.414/1A2, 4154/2 and 414/3 with an extent of 30 cents in survey No.349/1 and with an extent of 28 cents in survey No.349/2 all situated at Kothaimangalam Village, Palani Taluk, Dindigul District within a time frame.



For Petitioner : Mr.D.Venkatesh
For Respondent : Mrs.D.Farjana Ghoushia,
Special Government Pleader.

* * *

ORDER

Heard the learned counsel on either side.

2. The writ petitioner executed settlement deed in favour of her son Ayyappan. The document was presented before the respondent for registration. Registration was refused on the ground that the original parent deed was not produced. Challenging the impugned refusal check slip, the present writ petition came to be filed.

3. The petitioner states that the original document is with her elder son and he is refusing to par with the same.

4. A learned Judge of this Court vide order dated **18.11.2021** in ***W.P.(MD)No.19950 of 2021 (Selvam V. The Joint Sub Registrar No.1, Karaikudi, Sivagangai District)*** had held that in certain situations, the original document will be in custody of one of the co-owners and that if



the custodian is refusing to part with the document, the other co-owner cannot be expected to produce the same. The very same approach can be adopted in this case also. The writ petitioner is the absolute owner of the petition mentioned property. She had a number of properties standing in her name. She settled the same in favour of the elder son. That is how the elder son came to be in possession of the original documents in respect of the properties. Now she wants to settle the remaining item in favour of her younger son. In these circumstances, the petitioner is unable to produce the original documents. On this ground, registration ought not to be refused.

5. In this view of the matter, the impugned refusal check slip is quashed. The petitioner is permitted to re-present the document. The respondent may be satisfied that in all other respects, the transaction is in order. Subject to such satisfaction, the document in question shall registered and released. This writ petition stands allowed on these terms.

No costs.

08.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN,J.

PMU

To:

The Joint Sub-Registrar-II,
Palani, Dindigul District.

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