



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2025

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.3512 of 2025

Mrs.Palaniyammal

... Petitioner

Vs.

1.The Inspector General of Registration,
Office of the Inspector General of Registration,
Santhome High Road,
Chennai – 600 028.

2.The District Registrar,
Office of the District Registrar,
Namakkal District.

3.The Sub-Registrar,
Office of the Sub-Registrar, Moganur,
Namakkal District.

4.Mr.Sathyamoorthy

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records in connection with the refusal check slip in Refusal number RFL/Moganur/11/2025 Dated 23.01.2025 and consequently direct the 3rd respondent to register the sale deed dated 23.01.2025 presented by the petitioner.

For Petitioner : Mr.S.Kingston Jerold



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For Respondents : Mr.Abishekmurthy
Government Advocate
for R1 to R3

ORDER

This writ petition has been filed challenging the impugned refusal Check Slip issued by the 3rd respondent dated 23.01.2025.

2.Heard Mr.S.Kingston Jerold, learned counsel appearing on behalf of the petitioner and Mr.Abishekmurthy, learned Government Advocate appearing on behalf of respondents 1 to 3.

3.The case of the petitioner is that she is a joint owner of the subject properties and a suit was filed in O.S.No.56 of 1983 before the Sub Court, Namakkal seeking for the relief of partition. The preliminary decree was passed on 27.01.1984 and the petitioner was held to be entitled for 5/30th share in the suit properties. After the preliminary decree was passed, the final decree proceedings were initiated in I.A.No.637/2009 and the same is pending. Since the petitioner was getting old and she was in need of money, she wanted to deal with the undivided share in the property based on the preliminary decree. Accordingly, a Sale Deed was executed in favour of the 4th respondent and it was presented for registration before the 3rd respondent. The



3rd respondent has refused to register the Sale Deed and has issued the impugned Refusal Check Slip dated 23.01.2025 on the ground that the final decree proceedings are pending and that the petitioner cannot sell specific properties mentioned in the schedule to the 4th respondent. Aggrieved by the same, the present writ petition has been filed before this Court.

4. In the considered view of this Court, the share to which the petitioner is entitled to has been determined by virtue of the preliminary decree passed in O.S.No.56 of 1983 dated 27.01.1984. The petitioner was held entitled for 5/30th share. The petitioner wants to deal with this undivided share.

5. There is no bar in the petitioner dealing with her undivided share. However, the person who purchases such undivided share must either file a suit for partition and seek for the share which was purchased by him or the purchaser can step into the shoes of the vendor whose share has already been determined and wait for the allotment of the share in the final decree proceedings. Hence, there is no bar in dealing with the undivided share in a joint family property.

6. In the light of the above discussion, there shall be a direction to the petitioner



to amend the schedule of property and make it clear that what is being sold is only 5/30th share in the undivided property. That apart, in the Sale Deed, a particular clause shall be added to the effect that the undivided share is being sold in favour of the purchaser and the share that is ultimately identified and allotted in the final decree proceedings pending in IA No.637 of 2009 will enure in favour of the purchaser and as such, no specific property is identified and conveyed in favour of the purchaser. If these requirements are satisfied, the Sale Deed shall be entertained and registered, if it is otherwise in order.

7.In the result, this writ petition stands allowed with the above directions. No Costs.

05.02.2025

Internet : Yes
Index : Yes
Speaking Order / Non Speaking Order
ssr



To

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Namakkal District.

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Office of the Sub-Registrar, Moganur,
Namakkal District.



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N. ANAND VENKATESH, J.

SSR

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