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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2025

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.4901 of 2025

1.T.Ganesan

2.T.Siddhanathan

... Petitioners

Vs.

1.The Inspector General of Registration,
No.100, Santhome High Road,
Mullima Nagar, Mandavelipakkam,
Raja Annamalaipuram, Chennai 600 028.

2.The Sub Registrar, Ashok Nagar,
576, Mogappair West,
Ambattur Industrial Estate, Chennai 600 037.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the Sub Registrar, Ashok Nagar to withdraw the refusal Check Slip in Refusal No.263/2023 and to register the Partition Deed dated 26.12.2024 in the absence of the original Sale Deed.

For Petitioner : Mr.S.Sivaraman

For Respondents : Mr.K.Karthick Jagannath
Government Advocate for R1 & R2



ORDER

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This writ petition has been filed questioning the refusal Check Slip issued by the 2nd respondent dated 26.12.2024 and for a consequential direction to the 2nd respondent to register the Partition Deed dated 26.12.2024.

2.Heard Mr.S.Sivaraman, learned counsel appearing on behalf of the petitioner and Mr.K.Karthick Jagannath, learned Government Advocate appearing on behalf of the respondents 1 & 2.

3.The petitioners who are brothers are the sons of Late.Thirugnanasambandam. The property originally belonged to the mother and later, there was a oral partition among the parties and thereby, the husband and two sons also derived right in the property. However, it ended in a suit filed in O.S.No.6572 of 2005 before the V Assistant City Civil Court at Chennai. The suit was filed by the father against the petitioners. In this suit, the parties entered into a compromise and based on the compromise, a decree was passed on 14.02.2006. Thereafter, the father died and the property has vested on the petitioners. The patta was also issued in their favour by way of entry made in the permanent land register.



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4.The petitioners wanted to enter into a written Partition Deed in order to avoid future confusion and hence, Partition Deed dated 26.12.2024 was prepared and it was presented for registration before the 2nd respondent. The 2nd respondent has refused to register the document mainly on the ground that the original title deed has not been produced at the time of registration. Aggrieved by the same, the present writ petition has been filed before this Court.

5.This Court has repeatedly held that the Sub Registrar cannot insist for original title documents as a condition precedent for the registration of the document. This view has also been upheld by the Apex Court recently. The petitioners have specifically mentioned at Paragraph No.6 of the affidavit filed in support of the writ petition that the original title documents have been lost and it is not able to be traced. A recital can be added in the Partition Deed to that effect and it can be presented for registration before the 2nd respondent.

6.The learned Government Advocate appearing on behalf of the respondents submitted that there are two sisters to the petitioners and they also have a right



over the property. On going through the Compromise Deed, it is seen that the sisters have already given up their right and they were married much before the parties entered into a compromise. Therefore, in the absence of the sisters making a claim over the property, it is not necessary for the 2nd respondent to go into this issue. Hence, if the petitioners add the necessary recital in the Partition Deed regarding the loss of the original title documents which is not able to be traced, the document shall be entertained by the 2nd respondent and it shall be registered, if it is otherwise in order.

7. In the result, this writ petition stands allowed with the above directions.

No Costs.

19.02.2025

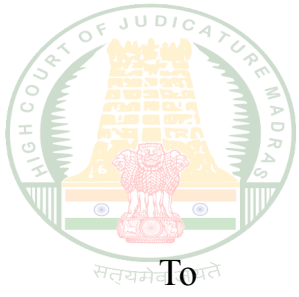
Internet : Yes

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Speaking Order / Non Speaking Order

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N. ANAND VENKATESH, J.

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