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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-06-2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

WP NO. 20268 of 2025

S.Duraisamy

... Petitioner

Vs

1.The District Registrar,
Salem District,
Salem.

2.The Sub Registrar,
Sankari,
Salem District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the order made in Refusal Check Slip No.RFL/ Sankari/ 22/ 2025 dated 26.05.2025 passed by the 2nd respondent, quash the same and consequently direct the 2nd respondent to register the settlement deed dated 26.05.2025 presented by the petitioner for compulsory registration in accordance with the provisions of the Indian Registration Act, 1908.



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For Petitioner(s) : Mr.A.Saravanan

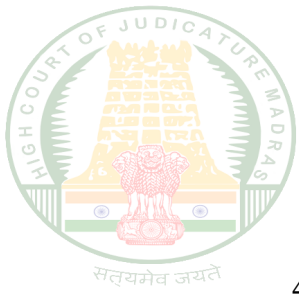
For Respondent(s) : Mr. U.Baranidharan, Spl.G.P.

ORDER

By consent of learned counsel on both sides, this writ petition is taken up for final disposal at the admission stage itself.

2. This Writ Petition has been filed praying for issuance of a Writ of Certiorarified Mandamus, challenging the refusal check slip dated 26.05.2025, whereby, the petitioner's settlement deed dated 26.05.2025 was refused to be registered on the premise that the Will, on the basis of which, the Settlement Deed is executed has not been registered and secondly, the last Will which has been executed has not been probated.

3. It is submitted by the learned counsel for the petitioner that both these reasons have been found by this Court to be lacking merits for refusal of registration.



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4. Learned counsel for petitioner would place reliance upon the judgment of the Single Bench of this Court made in W.P.No.15267 of 2025 on 29.04.2025, wherein, it is held as follows:

'3. The refusal check slip has been issued by the second respondent mainly on the ground that the petitioner's father was relying upon an unregistered Will and there are multiple pattas standing in the name of different persons.

4. In the considered view of this Court, the petitioner's father is tracing title through a Will. Some of the patas are standing in his name and he wants to settle the property in favour of the petitioner. Therefore, it is unnecessary for the 2nd respondent to go into the title to the property since he is not vested with such a power. In the light of the above discussion, the impugned refusal check slip issued by the second respondent dated 07.04.2025 is hereby quashed. There shall be a direction to the second respondent to register the settlement deed, if it is otherwise in order.'

5. Learned counsel for petitioner would place reliance upon the judgment of the Division Bench of this Court in the matter of ***N.Ramayee Vs. The Sub Registrar, Registration Department, Valapady - 636 115, Salem District and another (2020 (6) CTC 697).***



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6. The learned counsel for the petitioner would then rely on the order of the learned Single Bench of this Court in the matter of ***C.Malarkodi Vs. The District Registrar (Administration) in W.P.No.14688 of 2024***, wherein it was held as under:

"It is not the duty of the Registrar to find out whether this is the last will of the Testator and only the family members are competent to challenge any will executed by any member of th family. That apart, even assuming that the mortgage is in existence, the same is not a bar for subsequent transfer and even if any transfer takes place, such transfer is always subject to the mortgage, which issue has already been decided by this Court in N.Ramayee v. Sub-Registrar [(2020) 6 CTC 697]. The same view is also reiterated in G.Rajasulochana Vs. The Inspector general of Registration and others (W.P.No.29706 of 2022 decided on 16.04.2024 and so also in Subramani Vs. The Sub Registrar, Rasipuram and Another (W.P.No.11056 of 2024 decided on 26.04.2024)."

7. In the light of the above discussion, this court finds that the impugned order refusing to register the Settlement Deed is without any merit. The learned counsel for the respondent, at this stage would submit that the petitioners may represent the document and the same would be registered, if it is, otherwise in order.



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8. In view thereof, the impugned refusal check slip issued by the second respondent dated 26.05.2025 is hereby quashed. The petitioner would represent the documents i.e., Settlement Deed to the second respondent and on such re-presentation, the second respondent shall register the Settlement Deed, if it is otherwise in order. If for any reason, the respondent is of the view that registration of the Settlement Deed ought to be refused, the refusal slip would be issued assigning reasons.

5. With the above direction, this writ petition is disposed of. No costs.

12.06.2025

Index:yes/no
Internet:yes/no
msr
To

1.The District Registrar,
Salem District,Salem.

2.The Sub Registrar,
Sankari,
Salem District.

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MOHAMMED SHAFFIQ, J.

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