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W.P.No.24220 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.24220 of 2025

S.Murugesan

... Petitioner

Vs.

1.The District Registrar,
Salem District,
Salem.

2.The Sub Registrar,
Sankari,
Salem District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the order made in Refusal Check Slip No.RFL/Sankari/27/2025 dated 11.06.2025, passed by the second respondent, quash the same and consequently direct the second respondent to register the Settlement deed dated 11.06.2025 presented by the petitioner for compulsory registration in accordance with the provisions of the Indian Registration Act, 1908 and pass orders.

For Petitioner : Mr.A.Saravanan

For Respondent : Mr.U.Baranidharan



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Special Government Pleader

ORDER

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

2. The present writ petition is filed challenging the impugned refusal check slip dated 11.06.2025 issued by second respondent, whereby the settlement deed dated 11.06.2025 presented by the petitioner was refused to be registered on the premise that the Will dated 20.12.2022, on the basis of which the title is traced, is not registered and it is not clear as to whether it is the last Will that has been executed.

3. Learned counsel appearing for petitioner submit that the above reasoning for refusal of registration is unsustainable. In this regard he would place reliance on the order of this in W.P.No.20268 of 2025 dated 12.06.2025, wherein this Court following the earlier orders of this Court in W.P. No.15267 of 2025 dated 29.04.2025 and W.P.No.14688 of 2024 held as under:

"4. Learned counsel for petitioner would place reliance upon the judgment of the Single Bench of



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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).

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:



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"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 the 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)."

4. At the outset, it was submitted by the learned Special Government Pleader if the settlement deed dated 11.06.2025 is presented before the second respondent, the same would be registered, if it is otherwise in order. If, for any reason, the Sub Registrar is of the view that the registration ought to be refused, he would do so after assigning reasons, which was agreed to by the learned counsel for the petitioner.



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5. In view thereof, it is open to the petitioner to present the settlement deed dated 11.06.2025 before the second respondent. On such presentation, the second respondent shall register the settlement deed, if it is otherwise in order, in accordance with law. If for any reason, the second respondent refuses to register the settlement deed, he shall assign reasons in the refusal slip, which was agreed to by both counsel for petitioner as well as respondents. It is made clear that this Court has not expressed any views with regard to the merits of the case and it is open to the concerned respondent to consider the case on its own merits and in accordance with law.

6. Accordingly, the writ petition stands disposed of. There shall be no order as to costs.

04.07.2025

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No
mrn
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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