



W.P.No.30510 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2025

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.No.30510 of 2024
and W.M.P.No.33126 of 2024

N.Thulasidass

...Petitioner

Vs

1.The Sub Registrar
Vallam SRO's Office,
Gingee Taluk.

2.N.Kannan

3.N.Manikandan

...Respondents

PRAYER :-Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to impugned order of refusal check slip issued by the 1st respondent in RFL/Vallam-Tindivanam/1/2022 dated 11.01.2022, refusing to register the settlement Deed dated 11.01.2022 executed by the petitioner in favour of his son of T.Jawahar citing pendency of a civil suit in O.S.N.65 of 2019 and quash the same as illegal arbitrary without jurisdiction and amounts to abdication of statutory duty and further direct the 1st respondent to register the said settlement deed covered under the impugned order within a time frame as may be fixed by this Court.

For Petitioner : Mr.R.Veeramani



W.P.No.30510 of 2024

For Respondents : Mr.B.Vijay
Additional Government Pleader for R1
Mr.S.Madhar Khan for R2 and R3
ORDER

Aggrieved by the refusal check slip issued by the first respondent, the petitioner is before this Court.

2.The facts are herein below set out:-

The petitioner would contend that he is the absolute owner of the property measuring an extent of 90 cents in S.No.158/2 at Deevanur Village under a sale deed dated 23.08.1983. However, the petitioner's brothers who have been arrayed as respondents 2 and 3 herein had filed a suit in O.S.No.65 of 2019 for partition. The petitioner had executed a settlement deed in favour of his son in respect of an extent of 15 cents. The petitioner would submit that no interim order has been obtained by the second and third respondents prohibiting transfer. Therefore, it is his contention that the impugned refusal check slip is totally misconceived and has to be set aside. When the matter had come up for hearing it was informed that there was another suit in O.S.No.163 of 2014 filed by petitioner's sister Hema against the petitioner, his mother and also respondents 2 and 3 for a partition of her 1/6th share in the suit schedule



W.P.No.30510 of 2024

property. The suit was dismissed. It is also seen that the property which is a subject matter of settlement is not the subject matter of the said suit.

However, the suit in O.S.No.65 of 2019 has been filed in respect of the above property. Challenging the refusal check slip issued by the first respondent, the petitioner is before this Court.

3.Heard the learned counsels on either side. Mr.B.Vijay, learned Additional Government Pleader has taken notice for R1.

4.A perusal of the plaint in O.S.No.65 of 2019 would show that the first item of suit schedule property in O.S.No.65 of 2019 is the property which is the subject matter of the above Writ Petition. The contention of the respondents therein is that the property had been purchased out of the joint family funds in the name of the petitioner who was then a minor and the second item of property had been purchased in the names of the petitioner and respondents 2 and 3 who were all minors, from out of the joint family funds. Therefore, they have sought for a partition of the same. It is after the suit has been filed that the petitioner has come forward with the present settlement deed settling a specified extent on his son without the partition being effected. Without properties having



W.P.No.30510 of 2024

divided by metes and bounds, one co-owner cannot exercise an independent right over a specified extent of land. Therefore, I find no reason to set aside the impugned order in RFL/Vallam-Tindivanam/1/2022 dated 11.01.2022, and therefore, the Writ Petition is dismissed. It is well open to the petitioner to seek a registration after executing a settlement deed in respect of an undivided share.

5. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

02.01.2025

Index : Yes/No
Internet : Yes/No
Speaking Order/Non Speaking Order
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W.P.No.30510 of 2024

P.T.ASHA, J,

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To
The Sub Registrar
Vallam SRO's Office,
Gingee Taluk.

W.P.No.30510 of 2024
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