

W.P.(MD)No.4722 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 14.03.2025

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

W.P.(MD) No.4722 of 2025

Kasi Raja Pandian

... Petitioner

vs.

The Joint Sub Registrar,
Palayamkottai,
Tirunelveli District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the entire records in relating to the impugned order in Refusal Number.RFL/1 no. Joint Sub Registrar, Palayamkottai / 10/2025 dated 01.02.2025 of the respondent and to quash the same as un-sustainable and consequently to direct the respondent to register the petitioner's consent deed in respect of the property in T.S.No.1025 Mutharamman Kovil Street Palayamkottai as per section 47-A of Indian stamp act within the time limit that may be stipulated by this Court.

For Petitioner :Mr.S.Jeyakarthik

For Respondent :Mr.N.Ramesh Arumugam
Government Advocate



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ORDER

The petitioner challenges the refusal check slip issued by the respondent holding that a consent deed executed by the brother of the petitioner in favour of the petitioner was a document of conveyance, calling upon him to pay the appropriate stamp duty as per law.

2.The facts leading to this writ petition are;

the property situated in T.S.No.1025, Mutharamman Kovil Street, Palayamkottai, belong to one Umaiyalwathy. By way of a registered sale deed dated 16.12.1972, she sold the property in favour of Tmt.Ponnammal, W/o.Muthu Kumara Samy. The said document was registered as Doc.No.3821 of 1972.

3.Ponnammal and Muthu Kumara Samy had four children, namely,

- i) Sudalai Muthu @ Murugan,
- ii) Ponnu Durai Pandian,
- iii) Kasi Raja Pandian and
- iv) Rathinavel Pandian.



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4.Ponnammal and Muthu Kumara Samy joined together and executed a “WILL” on 29.09.1984. The “WILL” is registered as Doc.No. 72/1984. In terms of the “WILL”, Ponnammal and Muthu Kumara Samy divided the property in T.S.No.1025 of Mutharamman Kovil Street, Palayamkottai into two equal halves. Western portion was allotted to the writ petitioner and the eastern portion was allotted to Rathinavel Pandian. Sudalai Muthu @ Murugan and Ponnu Durai Pandian were not given any share.

5.Ponnammal passed away. Subsequently, Muthu Kumara Samy executed a gift deed on 25.03.1994 in favour of the petitioner. On 23.04.1998, the remaining brothers, Sudalai Muthu @ Murugan, Ponnu Durai Pandian and Rathinavel Pandian executed a release deed for the aforesaid property in favour of the petitioner.

6.As he had become the absolute owner of the property, the writ petitioner in exercise of that power started mortgaging the property for various purposes. Subsequently, he came to know about the “WILL”



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executed by Ponnammal and Muthu Kumara Samy on 29.09.1984.

Therefore, he approached his brother Rathinavel Pandian to execute a consent deed in order to confirm the previous transactions entered into between the family members. The document was presented on 31.01.2025. The Registrar issued a refusal check slip treating the consent deed as a document of conveyance. Aggrieved by the same, the present writ petition.

7.When the matter came up for admission, Mr.N.Ramesh Arumugam took notice on behalf of the sole respondent and sought time to file a counter. He has also filed a counter.

8.An additional affidavit has been filed by the petitioner stating that it is Rathinavel Pandian, his brother, who had executed the consent deed on 31.01.2025 and had presented the same for registration.

9.I heard Mr.S.Jeyakarthik, learned counsel for the petitioner and Mr.N.Ramesh Arumugam, learned Government Advocate for the respondent.



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10.Mr.S.Jeyakarthik argues that the necessity of executing the document dated 31.01.2025 arose in order to confirm the “WILL”, the settlement deed as well as the release deed executed by Ponnammal, Muthu Kumara Samy, Sudalai Muthu @ Murugan, Ponnu Durai Pandian and Rathinavel Pandian respectively. He states that the petitioner has already obtained title by virtue of two documents dated 25.03.1994 and 23.04.1998 and there is no transfer of title by the consent deed dated 31.01.2025. Therefore, it cannot be treated as a conveyance.

11.*Per contra*, Mr.N.Ramesh Arumugam referring to the counter affidavit argues that in terms of Section 4 of the Indian Stamp Act, 1899, where several documents are evidenced by one transaction, one document has to be treated for the purpose of stamp duty, with the option given to treat the remaining supplementary documents as other parts for the purpose of levying stamp duty. He states that since Rathinavel Pandian confirms the aforesaid document executed by the father in favour of his brother, and the release deed executed by the other brothers including himself, in favour of the petitioner, the document should be treated as a conveyance deed.



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12.I carefully considered the submissions of both sides.

13.The primary argument of Mr.S.Jeyakarthik is that the consent deed is not a deed of conveyance. As to what is a deed of conveyance is defined under Section 2 (10) of the Indian Stamp Act, 1899. It is an inclusive definition. It reads as follows:-

*“**Conveyance:-** conveyance includes a conveyance on sale and every instrument by which **property**, whether movable or immovable, **is transferred inter vivos** and which is not otherwise specifically provided for by Schedule I;”*

14.A perusal of the said Clause shows that an instrument to be one of conveyance, there should be a transfer inter vivos from one party to another, though it is not termed as a sale deed and such a document should not be covered under schedule I of the Stamp Act. A careful search of schedule I of the Stamp Act would show that a consent deed is not covered by it. For this very fact, a consent deed would not become a conveyance deed. For a consent deed to become a sale deed, there should



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be a transfer inter vivos of the title to a property, whether movable or immovable, from one person to another. Applying this principle to the facts of the case, Rathinavel Pandian should have transferred his interest in the property in favour of Kasi Raja Pandian, the writ petitioner, in order to treat it as a deed of conveyance.

15.The narration of facts shows that Rathinavel Pandian had already transferred whatever right, title and interest he had in the property, which came to the brothers on account of the death of their parents, Ponnammal and Muthu Kumara Samy, by way of a release deed on 23.04.1998. Whatever right Muthu Kumara Samy had in the property has also been transferred in favour of the writ petitioner on 25.03.1994. Therefore, on and from the date of execution of the release deed dated 23.04.1998, Kasi Raja Pandian has become the owner of the property.

16.On account of legal issues that may be raised by any person claiming through Rathinavel Pandian, the petitioner, by way of abundant caution, has decided to get a consent deed from Rathinavel Pandian confirming the “WILL”, the settlement deed as well as the release deed.



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At best, it is a confirmatory deed. By virtue of this document, there is no transfer of title.

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17. With respect to the second argument of Mr. N. Ramesh Arumugam that Section 4 of the Indian Stamp Act will operate, hereto, I am not with Mr. N. Ramesh Arumugam. This is because for the purpose of Section 4(2) apply, there should be several transactions captured in a single document. To give an example, if a single document acts as a sale, a mortgage or a settlement deed, then, for calculating the stamp duty, the part evidencing sale will be used as the primary purpose. Being a taxing statute, Stamp Act requires strict interpretation.

18. I have already concluded that the consent deed is only in the nature of a confirmatory deed executed by Rathinavel Pandian by way of abundant caution, to confirm the documents dated 29.09.1984, 25.03.1994 and 23.04.1998. As the writ petitioner is already the owner of the property, Rathinavel Pandian cannot be treated as a mortgagor. Similarly, by virtue of the release deed dated 23.04.1998, whatever right, title and interest Rathinavel Pandian had in the property had been



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released in favour of the writ petitioner. Therefore, it also cannot be treated as a settlement deed.

19.In any event, the document of the years 1994, 1998 and 2025 cannot be treated as a single transaction. They are separated atleast by 31 years and 27 years respectively. Since none of the conditions required for Section 4 of the Stamp Act are satisfied, the submission of Mr.N.Ramesh Arumugam is not sound.

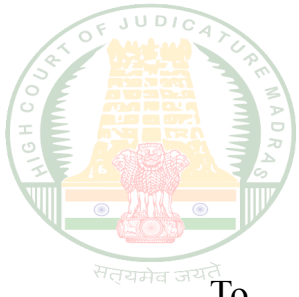
20.In the light of the above discussion, the Writ Petition stands allowed. The impugned order in Refusal Number.RFL/1 No. Joint Sub Registrar, Palayamkottai/10/2025 dated 01.02.2025 is quashed. There shall be a direction to the respondent to register the consent deed dated 31.01.2025 within a period of two weeks from the date of uploading of a copy of this order. No costs.

Call on 04.04.2025 for reporting compliance.

Index :Yes / No
Internet :Yes / No

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The Joint Sub Registrar,
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V. LAKSHMINARAYANAN, J.

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