



W.P(MD)No.5201 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 26.02.2025

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THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Writ Petition(MD)No.5201 of 2025

P.Perumalsamy

..Petitioner

Vs

The Sub Registrar,
Rajapalayam Sub Registrar Office,
Rajapalayam,
Virudhunagar District.

..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondent / Sub-Registrar, Rajapalayam to receive and register the Settlement Deed or such other documents executed by the petitioner in favour of his wife or any other lawful transaction concerning the said property being land and house bearing T.S.No.80, 91, 92, Old S.No.267/B2 situated at Sevalpatti North Street Rajapalayam Town in accordance with law within a time frame as may be fixed by this court.



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For Petitioner : Mr.V.Prakash
For Respondent : Mr.N.Ramesh Arumugam
Govt. Advocate

ORDER

The writ petitioner seeks a Writ of Mandamus to direct the respondent/Sub-Registrar, Rajapalayam to receive and register the Settlement Deed executed by the petitioner in favour of his wife in respect of house bearing T.S.No.80, 91, 92, Old S.No.267/B2 situated at Sevalpatti North Street, Rajapalayam Town in accordance with law within a stipulated time.

2. The petitioner states that he is the owner of the aforesaid property. He had purchased the said property by way of a registered sale deed dated 24.11.1994. He further states that during the course of his business, he was constrained to execute two mortgage deeds on 20.10.1998 and 23.10.1998. The petitioner was the alleged mortgagor and one Raju Naicker was the mortgagee. In order to enforce the two mortgages, the said Raju Naicker instituted two suits in O.S.Nos.5 of 2010 and 80 of 2013, on the file of the Principal District Court, Virudhunagar District at Srivilliputhur. After contest, the said suits came to be dismissed on 16.08.2022. Now, the petitioner intended to execute a



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settlement deed in favour of his wife. When he presented the document before

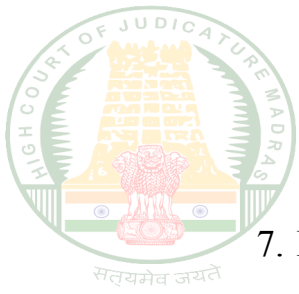
the Sub Registrar, he refused to register the same on the ground that the Encumbrance Certificate reflects two mortgage deeds, dated 20.10.1998 and 23.10.1998. The petitioner pleads that he produced a certified copy of the Judgment and Decree in O.S.No.5 of 2010 and O.S.No.80 of 2013 dated 16.08.2022, before the Sub Registrar. However, the Sub Registrar refused to receive the document. Hence, this writ petition.

3. Heard Mr.Y.Prakash, for the petitioner and Mr.N.Ramesh Arumugam, learned Government Advocate for the respondent.

4. Mr.Y.Prakash reiterated the contentions raised in the affidavit.

5. Mr.N.Ramesh Arumugam, on instructions received from the Sub Registrar, Rajapalayam, pleads that the petitioner has to first register the Judgment and Decree in O.S.No.5 of 2010 and O.S.No.80 of 2013 dated 16.08.2022, and only thereafter can he present any document in favour of a third party.

6. I have carefully considered the submissions of both sides.



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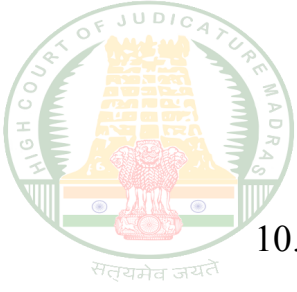
7. Registration of a Judgment and Decree does not fall under Section 17

of the Registration Act. Therefore, it is not a mandatory requirement.

Registration of the Judgment and Decree is done by virtue of Section 18 of the Registration Act. This is only an optional.

8. Even assuming that the mortgage is subsisting, the owner of the property does not lose his right to alienate the property in favour of any third party. Any alienation made by the owner of the property, pending a mortgage, will make the beneficiary of such a document receiving the property subject to the mortgage. Therefore, the demand of the Sub Registrar that the Judgment and Decree in the suit would have to be registered before any other document is presented is neither supported by the Registration Act nor by any verdict of this court.

9. In the light of the above discussion, the writ petition succeeds. Therefore, there shall be a direction to the respondent/Sub Registrar to register the settlement deed executed by the petitioner in favour of his wife in respect of the property comprised in T.S.No.80, 91, 92, Old S.No.267/B2 situated at Sevalpatti North Street Rajapalayam Town, within a period of two weeks from the date of receipt of a copy of this order.



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10. The writ petition is ordered accordingly. No costs.

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NCC : Yes/No

Index : Yes/No

Internet: Yes

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To

The Sub Registrar,
Rajapalayam Sub Registrar Office,
Rajapalayam,
Virudhunagar District.



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V.LAKSHMINARAYANAN, J.

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