



W.P(MD)No.5366 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 28.02.2025

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Writ Petition(MD)No.5366 of 2025

Subhashini

..Petitioner

Vs

1.The District Registrar,
District Registrar Office,
Virudhunagar.

2.The Sub Registrar,
Office of No2 Joint Sub Registrar,
Virudhunagar.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned refusal check slip No. RFL/2 Joint Sub Registrar Virudhunagar /7/2024 dated 06.12.2024 issued by the 2nd respondent and quash the same and consequently direct the 2nd respondent to register the settlement deed dated 06.12.2024 executed by the petitioner and her sister in favour of their mother Smt.Gajalakshmi within a stipulated period.

For Petitioner : Mr.J.Mathesh
For Respondents : Mr.R.Sureshkumar
Addl. Govt. Pleader



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ORDER

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RFL/2 Joint Sub Registrar, Virudhunagar /7/2024 dated 06.12.2024 issued by the second respondent and consequently, direct the second respondent to register the settlement deed dated 06.12.2024 executed by the petitioner and her sister in favour of their mother, Smt.Gajalakshmi.

2. The petitioner claims that she is the granddaughter of one N.Kondal Naidu. Kondal Naidu seems to have been a wealthy person owning several properties in and around Virudhunagar. He had purchased a property to an extent of 13261.968 sq.ft, comprised in T.S.Nos.20/1B & 21/2B situated at Virudhunagar Town and was enjoying the same. Kondal Naidu had 6 sons and 4 daughters. During his lifetime, he had allotted the property to his children, and the same was put into writing by way of a declaration deed dated 28.12.1998.

3. The petitioner's father one Sankaranarayanan was one of the children of Kondal Naidu. In the oral partition entered between the family members, he was allotted the “C” schedule mentioned property. Sankaranarayanan was enjoying the property from 1998 till his death on 31.01.2013. On his death, he

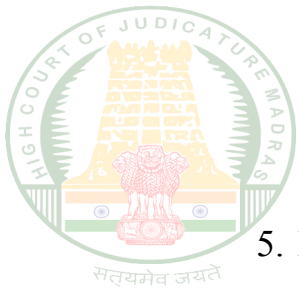


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left behind his wife Gajalakshmi, the writ petitioner, Subhashini, and her sister, Niranjani to succeed to the estate. The daughters of Sankaranarayanan decided to settle the properties in favour of Gajalakshmi. They executed a settlement deed in her favour and presented the same for registration before the second respondent. The second respondent rejected the registration of the settlement deed on the ground that the partition entered between the family members of Sankaranarayanan and Kondal Naidu was an oral one, and therefore, the settlement deed cannot be registered. Challenging the same, the present writ petition.

3. Heard Mr.J.Mathesh for the petitioner and Mr.R.Sureshkumar, learned Additional Government Pleader for the respondents.

4. Mr.J.Mathesh reiterated the contentions raised in the affidavit. He pleads that while registering a document, under Sections 34 and 35 of the Registration Act, the second respondent is only exercising an executive power and not a quasi-judicial power, and therefore, he cannot conduct a roving enquiry as to whether the partition was oral or should have been reduced into writing.



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5. Per contra, Mr.R.Sureshkumar argues that the alleged partition being oral in nature, the second respondent entertained a doubt and therefore, in order to avoid any objections, he has passed the impugned order.

6. I have carefully considered the submissions of both sides

7. Narration of the facts shows that the children born to Kondal Naidu had decided to settle the matter amicably among themselves without either troubling the Court or the Sub Registrar Office. Oral partition amongst family members is not unknown to Hindu Law. When a family wants to put their affairs into an order, by way of amicable oral settlement, it is not for the second respondent, Sub Registrar, to state that they should have partitioned the property only by way of a suit or by way of a partition deed.

8. The settlement deed states that the “C” schedule property, which belonged to Kondal Naidu, fell to the share of Sankaranarayanan. Sankara Narayanan's legal heirs want to settle the property in favour of the wife of Sankaranarayanan. They relied upon the confirmation deed entered into between the parties on 28.12.1998. That being the situation, the second respondent/Sub Registrar need not assume that the registration of the settlement



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deed will create issues between the family members. It is not the role of the second respondent/Sub Registrar to protect the interests of the other legal representatives of Kondal Naidu. If they are interested, I am certain that they will get appropriate legal advice and initiate such proceedings, as they may be advised. In case they have legal issues, I am sure that the last person they will approach for legal advice is the second respondent/Sub Registrar.

9. In the light of the above discussion, as the second respondent/Sub Registrar has no jurisdiction to go into the question of title, the impugned refusal check slip No. RFL/2 Joint Sub Registrar, Virudhunagar /7/2024 dated 06.12.2024 issued by the second respondent is quashed. The writ petition is allowed. The second respondent is directed to register the settlement deed dated 06.12.2024 executed by the petitioner and her sister in favour of their mother, Smt.Gajalakshmi within a period of two weeks from the date of uploading of this order.

10. Post the matter after two weeks for reporting compliance.

28.02.2025

NCC : Yes/No
Index : Yes/No
Internet: Yes
skn



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To

- 1.The District Registrar,
District Registrar Office,
Virudhunagar.
- 2.The Sub Registrar,
Office of No2 Joint Sub Registrar,
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V.LAKSHMINARAYANAN, J.

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