



W.P.(MD) No.9455 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD) No.9455 of 2025

S.Manikandan ... Petitioner

Vs

1 The District Registrar,
Office of Registration Department,
Ramanathapuram District.

2 The Sub Registrar,
Paramakudi,
Ramanathapuram District.

3 Kamalakannan ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of certiorarified mandamus, to call for the impugned refusal check slip under Refusal No.RFL/Paramakudi/22/2025 passed by the respondent, dated 11.03.2025, and to quash the same as illegal and further to direct the respondent to register the settlement deed, dated 11.03.2025, executed by the petitioner relating to the properties under S.No.



W.P.(MD) No.9455 of 2025

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For Petitioner : Ms.J.Annie Infanta,
for Mr.S.Kasirajan.

For Respondents 1 & 2 : Mr.R.Suresh Kumar,
Addl. Govt. Pleader.

ORDER

The petitioner seeks for the following relief :

"Writ of certiorarified mandamus, to call for the impugned refusal check slip under Refusal No.RFL/Paramakudi/22/2025 passed by the respondent, dated 11.03.2025, and to quash the same as illegal and further to direct the respondent to register the settlement deed, dated 11.03.2025, executed by the petitioner relating to the properties under S.No.132/4A measuring a extent of 0.26.0 hectares equivalent to 64.1/4 cents having its patta No.1415 situated at Munaivenri Village, Ilayankudi Circle, Sivagangai District."

2. The petitioner states that the property situated at Survey No. S.No.132/4A to an extent of 64 ¼ cents at Munaivenri Village, Ilayankudi



W.P.(MD) No.9455 of 2025

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Circle, Sivagangai District, is the ancestral property of the petitioner. The petitioner pleads that his father one Subramaniyan had mortgaged the said property with one Kamalakannan for a sum of Rs.15,000/- and the said mortgage was registered vide Document No.330/2006. Unfortunately, his father Subramaniyan passed away on 28.08.2007.

3. The petitioner pleads that after the death of his father, he discharged the mortgage on 20.04.2009. The mortgagee received the amount and endorsed that the mortgaged amount had been paid, on the last page of the mortgage deed. The petitioner having discharged the mortgage, did not get the discharge receipt executed. He presented a suit for a declaration that the mortgage deed is cancelled and for a consequential mandatory injunction, directing the respondent to cancel the mortgage deed. The said suit was not even taken on file, on the ground that the suit was barred by limitation.

4. The petitioner states that he settled the property in favour of his wife and when the settlement deed was presented for registration on 11.03.2025, the second respondent issued a refusal check slip, stating that as there was a prior mortgage, he would not register the settlement deed. Aggrieved by the same, the present Writ Petition.

5. I have heard Ms.J.Annie Infanta for the petitioner and Mr.R.Suresh Kumar, Additional Government Pleader for the respondents 1



W.P.(MD) No.9455 of 2025

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and 2. As no adverse order is being passed against the third respondent, notice to him is dispensed with.

6. Ms.Annie Infanta reiterated the contentions in the affidavit and pleaded that the mortgage has been discharged and, therefore, the petitioner is entitled to have the document registered.

7. Per contra, Mr.Suresh Kumar, on instructions, submits that in terms of the Circulars issued by the Inspector General of Registration, the Su-Registrar had decided to refuse the registration. He pleads that pendency of the mortgage was the ground to refuse registration.

8. I have carefully considered the submissions and gone through the records.

9. The right to alienate the property is a part of the constitutional right under Article 300A of the Constitution of India. Pendency of mortgage is not a bar for registration of a document of conveyance or settlement. The effect of the mortgage is that the mortgagee will be entitled to enforce mortgage not only against the original mortgagor but also the persons claiming under him/her. Neither the Transfer of Property Act nor does the Registration Act bar the owner of the property to alienate the property, pending mortgage. The circulars issued by the Inspector General of Registration do not substitute the parliamentary legislations nor can they be given the status of a statute. This



W.P.(MD) No.9455 of 2025

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position of law has already been laid down by a Division Bench of this Court in *N.Ramayee v. Sub-Registrar*, 2020 (6) CTC 697.

10. In the light of the above discussion, the impugned order is quashed. There shall be a direction to the second respondent to register the settlement deed executed by the writ petitioner in favour of his wife. Needless to add, if the mortgage is alive, the third respondent will be entitled to enforce the mortgage despite the execution of the settlement deed.

11. Writ Petition is allowed accordingly. No costs.

04.04.2025

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

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To:

- 1 The District Registrar,
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Ramanathapuram District.
- 2 The Sub Registrar,
Paramakudi,
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W.P.(MD) No.9455 of 2025

V.LAKSHMINARAYANAN, J.

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W.P.(MD) No.9455 of 2025

04.04.2025