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W.A.(MD)NO.1128 OF 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

W.A.(MD)No.1128 of 2025

M.Karpagavalli

... Appellant / Petitioner

Vs.

The Sub Registrar,
Sub Registrar Office,
Ottapidaram,
Thoothukudi 628 401.

... Respondent / Respondent

Prayer: Writ appeal filed under Clause 15 of the Letters Patent,
to allow the appeal and set aside the order of this Court made in W.P.
(MD)No.1567 of 2025 dated 22.01.2025.

For Appellant : Mr.K.Chinraj

For Respondent : Mr. S.Saji Bino,
Special Government Pleader.

* * *

**JUDGMENT**

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Heard the learned counsel appearing for the appellant and the learned Special Government Pleader appearing for the respondents.

2. The petition-mentioned property was purchased by one Samuvel Nadar vide registered sale deed dated 30.09.1969. Thereafter, he mortgaged the property vide registered mortgage deed dated 17.06.1975 in favour of Manickampillai. The mortgage was not redeemed. The mortgagor as well as the mortgagee had passed away. The appellant is the sole legal heir of the mortgagee. She executed a sale deed in favour of third party and presented the same for registration before the registering authority. The registering authority declined to register the document and issued refusal check slip dated 19.12.2024. Challenging the same, W.P.(MD)No.1567 of 2025 came to be filed. The learned single Judge dismissed the writ petition vide order dated 22.01.2025 in the following terms:-

“6. On perusal of the mortgage deed dated 17.06.1975, it is only a simple mortgage. The possession of the subject property was not handed over to the mortgagee. In case of a



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usufructuary mortgage, where the mortgagor delivers possession of the mortgaged property in favour of the mortgagee, then the limitation comes to rescue. The mortgagee to deal with the property as the full owner. The judgment cited by the learned counsel for the petitioner is applicable arising out of whether mortgage and as such it is no way helpful to the case on hand, since the said Samuvel Nadar executed simple mortgage deed in favour of the petitioner's father and no possession of the subject property was handed over to the mortgage.

7. Therefore, the petitioner ought to have approach the civil Court for appropriate relief to claim title over the property. Hence, as on today, the petitioner had no title over the property to deal with the subject property. Hence, the respondent rightly refused to register the sale deed, which was presented for registration by the petitioner and this Court finds no infirmity or illegality in the order passed by the respondent. Hence, this Writ Petition is liable to be dismissed and accordingly, this Writ Petition stands dismissed. No costs."

Assailing the same, this writ appeal has been filed.



WEB COPY 3. The learned counsel appearing for the appellant reiterated all the contentions set out in the grounds of appeal.

4. We are not swayed by the same. As rightly noted by the learned single Judge, what was executed in favour of the appellant's father was only a simple mortgage. There is nothing on record to show that the possession was handed over to the mortgagee. In any event, by virtue of the mortgage deed, title will not change from one hand to another. The appellant has to establish her rights only before the jurisdictional civil Court. The learned single Judge rightly approached the issue. Interference with the said order is not warranted. This writ appeal stands dismissed. No costs.

(G.R.SWAMINATHAN, J.) & (K.RAJASEKAR, J.)
5th August 2025

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

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W.A.(MD)NO.1128 OF 2025

To:

The Sub Registrar,
Sub Registrar Office,
Ottapidaram,
Thoothukudi 628 401.



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W.A.(MD)NO.1128 OF 2025

G.R.SWAMINATHAN, J.

AND

K.RAJASEKAR, J.

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