



W.P.(MD)No.10700 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.01.2025**

CORAM:

THE HONOURABLE **MR.JUSTICE G.K.ILANTHIRAIYAN**

W.P.(MD)No.10700 of 2024

and

W.M.P.(MD)No.9572 of 2024

C.Poolpandi

... Petitioner

/Vs./

1. The District Registrar,
Tirunelveli District Registration Office,
Tirunelveli.
2. The Sub-Registrar,
Office of the Palayamkottai Joint I Sub-Registrar,
Palayamkottai,
Tirunelveli District.
3. Gomathi
4. Karuppasamy Pandian

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to impugned refusal slip dated 27.11.2023 in Refusal No.RFL/1 No.Joint Sub Registrar Palayamkottai/66/2023 on the file of the second respondent refusing to register the petitioner's Sale Deed



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dated 27.11.2023 and quash the same as illegal and arbitrary and further direct the second respondent to register the sale deed dated 27.11.2023 executed by the petitioner.

For Petitioner : Mr.V.Kannan
For R-1 & R-2 : Mr.D.Sadiq Raja
Additional Government Pleader
For R-3 & R-4 : Mr.G.Prabhu Rajadurai

ORDER

The writ petition has been filed challenging the refusal slip issued by the second respondent dated 27.11.2023 thereby refused to register the sale deed presented by the petitioner for presentation with respect of property comprised in Survey No.711/3 to an extent of 64 cents situated at Keelanatham Village, Palayamkottai Taluk, Tirunelveli District.

2. The petitioner's grandfather, namely, Sudalaimuthu Thevar had four children and one of the daughters is the third respondent herein. During his lifetime, the said Sudalalimuthu Thevar and his two sons, namely the Chellayya Thevar and Sankara Pandian had entered into a registered Partition Deed dated 11.12.1986 vide Document No.3532 of



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1986. As per the partition deed, the land measuring 7 Acres 58 cents was allotted for the petitioner's grandfather, the land to an extent of 15 acres 84 cents was allotted in favour of one Sanakara Pandian and the land to an extent of 15 acres 52 cents was taken by the petitioner's father, namely the said Chellayya Thevar. Out of 15 acres 52 cents, the petitioner's father sold 10 acres 6 cents prior to 2009 itself as per the partition deed. The land comprised in S.No.408/3 to an extent of 1 cent, the land comprised in S.No.408/1 to an extent of 8 acre 24 cents and S.No.408/1 to an extent of 1 acre 84 cents are situated at Keelanatham Village, Palayamkottai Taluk, Tirunveli District. Thereafter, the said Chellayya Thevar, had executed a Gift Settlement Deed dated 28.10.2009 registered vide Document No.5067 of 2009 gifting the balance 5 acres and 46 cents comprised in S.No.410/1(1 acre 92 cents), S.No.411/2 (1 acre 24 cents, S.No.710/2 (75 cents), S.No.711/2 (91 cents) and S.No.711/3(64 cents) situated at Keelanatham Village, Palayamkottai Taluk, Tirunelveli District, in favour of the petitioner and his siblings and they are in possession and enjoyment of the said property. The said property has been sub divided into 10 sub-divisions wherein the patta has been issued in favour of seven persons. After the demise of the petitioner's



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grandfather, the third respondent and her daughter had claimed absolute right over the said property and sold the same by converting it into a house plots through her power gent by claiming that the petitioner's grandfather had executed an unregistered will dated 09.04.1992.

3. Further, the remaining lands were also sold out by the third respondent in favour of the third parties. Now, the third respondent has appointed the fourth respondent, who is an Advocate, as Power of Attorney, for executing sale deed in respect of 1/4th share in the property in favour of the third party which was allotted in favour of the petitioner's father. After knowing the fact, the petitioner and his siblings had filed a suit in O.S.No.418 of 2023 on the file of learned Principal District Munsif Court, Tirunelveli, challenging the sale deed executed by the third and fourth respondents herein in favour of the third party and the same is pending. While being so, the petitioner had executed a sale deed in respect of 30 cents of land out of the total extent of 64 cents comprised in S.No.711/3, in favour of the third party. In fact, the sale deed executed by the third and fourth respondents has been registered vide Document No.6379 of 2020 and the same is kept pending without



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releasing the same for want of Stamp duty under Section 47 A of the Indian Stamp Act, 1899. Therefore, the second respondent refused to register the sale deed which was presented for registration by the petitioner on the ground that the undivided share of $1/4^{\text{th}}$ in total extent of 64 cents comprised in S.No.711/3 was registered by the third and fourth respondents in favour of the third party and the same is pending for collection of deficit of Stamp duty under Section 47 A of the Indian Stamp Act, 1899 and further it is not yet sub-divided. The petitioner claimed title over the property from his father. The petitioner's father executed A partition deed between himself and his brother dated 11.12.1986, vide Document No.3532 of 1986 and subsequently, several sale deeds were executed by the petitioner's father. Now, the third respondent had executed a sale deed in favour of the third party as if she is having $1/4^{\text{th}}$ share in the subject property.

4. That apart, the said sale deed has not yet released for want of deficit of Stamp duty under Section 47 A of the Indian Stamp Act, 1899. Further, the petitioner has also challenged the said sale deed in O.S.No. 418 of 2023 and the same is pending before the learned Principal District



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Munsif Court, Tirunelveli. Therefore, the third respondent without showing any title over the property simply stated that she has 1/4th share in the subject property and also had executed A sale deed. Therefore, it is no impediment for the second respondent to register a sale deed which was presented for registration by the petitioner in respect of the subject property measuring to an extent of 30 cents out of the total extent of 64 cents.

5. In view of the above, the impugned refusal check slip cannot be sustained and is liable to be quashed. Accordingly, the impugned refusal check slip dated 27.11.2023 is hereby quashed. The petitioner is directed to re-present the sale deed within a period of one week from the date of receipt of a copy of this order. On receipt of the same, the second respondent is directed to register the sale deed presented by the petitioner, within a period of one week thereafter and release the same forthwith, if it is otherwise in order. It is made clear that any of the observation made by this Court in this order may not influence the trial Court while disposing the suit.



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6. Accordingly, this writ petition is allowed. No costs.

Consequently, connected miscellaneous petition is closed.

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

09.01.2025

TO

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Tirunelveli.
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G.K.ILANTHIRAIYAN, J.

jbr

Order made in
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Dated:
09.01.2025