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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.07.2025

CORAM:

THE HONOURABLE MRS JUSTICE S.SRIMATHY

W.P.(MD) No.20741 of 2025

S.Muthulingam

... Petitioner

Vs

1.The Sub-Registrar
KommadiKottai, Thoothukkudi District.

2.P.Perumal

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned refusal Check Slip in RFL/KommadiKottai/33/2025 dated 02.07.2025 and quash the same and consequently direct the respondent to register the Mortgage Deed dated 02.07.2025 executed by the petitioner in favour of one Hicourt Raja and release the same within the time frame fixed by this Honble Court.



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For Petitioner : Mr.K.K.Udayakumar,

For Respondent : Mr.S.Saji Bino (for R1)
Special Government Pleader,

ORDER

The present writ petition is filed to quash the impugned refusal Check Slip in RFL/Kommadikottai/33/2025 dated 02.07.2025 and consequently to direct the respondent to register the Mortgage Deed dated 02.07.2025 executed by the petitioner in favour of one Hicourt Raja and release the same.

2.Through the impugned order, the respondent refused to register the mortgage deed stating that the property belongs to one Perumal, who is arrayed as second respondent. But, the suit property is mortgaged in order to avail loan by the petitioner. The said Perumal is not having any objection for the same.

3.However, the learned Special Government Pleader appearing for the respondent submitted that since the property belongs to Perumal, the petitioner cannot mortgage the property.



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4.It is settled proposition of law that mortgage can be done by another person also. It is not necessary the original owner ought to execute the mortgage deed. Therefore, the impugned order is non application of mind and hence, the same is liable to be quashed.

5.The next contention of the respondent is that the petitioner is trying to evade the stamp duty. Moreover, the mortgage would be covered under 17B of the Registration Act, 1908. Hence, the appropriate stamp duty ought to be collected. This Court is not inclined to interfere with the said submission of the respondent. Since the respondent is the statutory authority, he has to fix the appropriate stamp duty.

6.Accordingly, this writ petition is allowed. The impugned refusal Check Slip in RFL/Kommadikottai/33/2025 dated 02.07.2025 passed by the first respondent is hereby quashed. The first respondent is directed to register the Mortgage Deed dated 02.07.2025 executed by the petitioner in favour of one L.Highcourt Raja and release the same within a period of four weeks from the date of receipt of a copy of this order.



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Further, the first respondent is directed to fix the appropriate stamp duty in accordance with law. No costs.

30.07.2025

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

vsg

To

1. The Sub-Registrar
Kommadikottai, Thoothukkudi District.



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