



W.P(MD)No.34293 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.34293 of 2025

&

W.M.P.(MD)No.27136 of 2025

Velmurugan

... Petitioner

Vs.

1.The District Registrar,
Office of the District Registrar,
Madurai District.

2.The Sub Registrar,
Chettikulam Sub Registration Office,
Madurai North,
Madurai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to call for the records pertaining to the Impugned Proceedings issued by the 2nd respondent in Refusal Number.RFL/Chettikulam (Madurai North)/109/2025 dated 14.08.2025 and quash the same as arbitrary, illegal and without any legal basis and consequently directing the 2nd Respondent to entertain the Sale Deed dated 11.08.2025 presented by the petitioner for registration and register the same within the time stipulated by this Court.



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For Petitioner : Mr.M.Shakulhameed

For Respondents : Mr.S.Shanmugavel
Additional Government Pleader
for R1 & R2

ORDER

Heard both sides.

2.Sale deed dated 11.08.2025 was executed in favour of the writ petitioner and presented for registration. Registration was refused on the ground that the petitioner's vendor had obtained only a preliminary decree in her favour and that the final decree petition was still pending.

3.It is seen that what has been conveyed to the petitioner is only 90/1144th undivided share in the property. A person who has undivided share in a property can very well alienate the same. Section 44 of the Transfer of Property Act, 1882 expressly enables transfer by one co-owner. The transferee acquires the transferor's right to joint possession or other common or part enjoyment of the property and to enforce a partition of the same. But such a right to joint possession will not be available when share in a dwelling house is transferred to a person who is not a member of the family. When even before passing of a preliminary decree, a co-owner has a right to transfer, it is too



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much to deny such a right to a vendor in whose favor a preliminary decree has already been passed. Section 6 of the Transfer of Property Act states that property of any kind except those set out in Section 6(a) to (i) can be transferred. An undivided share in an immovable property is certainly a property and therefore can be transferred.

4.A learned Single Judge of this Court vide order dated 05.02.2025 made in ***WP No.3512 of 2025 (Mrs.Palaniyammal v. Inspector General of Registration, Chennai)*** held as follows :

“5.There is no bar in the petitioner dealing with her undivided share. However, the person who purchases such undivided share must either file a suit for partition and seek for the share which was purchased by him or the purchaser can step into the shoes of the vendor whose share has already been determined and wait for the allotment of the share in the final decree proceedings. Hence, there is no bar in dealing with the undivided share in a joint family property.”

5.The objection of the registering officer is that the document can be executed only after the final decree is passed. Such an objection is patently unsustainable and runs counter to the statutory mandate set out in Section 44 of the Transfer of Property Act, 1882. In this view of the matter, the impugned



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refusal check slip is quashed. The parties are at liberty to re-present the document. It shall be registered and released subject to fulfilment of other usual formalities.

6.The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

27.11.2025

Index : Yes / No
Internet : Yes/ No
rmi/skm

To

- 1.The District Registrar,
Office of the District Registrar,
Madurai District.
- 2.The Sub Registrar,
Chettikulam Sub Registration Office,
Madurai North,
Madurai District.



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G.R.SWAMINATHAN, J.

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