



W.P.(MD) No.36595 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.01.2026

CORAM

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.(MD)No.36595 of 2025

K.Raj

... Petitioner

Vs

1.The District Registrar,
Madurai South Registration District,
171, Palace Road,
Madurai – 625 001.

2.The Sub Registrar,
Elumalai Sub-Registrar Office,
Elumalai, Madurai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned check slip issued by the 2nd respondent in Refusal check-slip No.RFL/Elumalai/105/2025, dated 10.12.2025 and quash the same as arbitrary, illegal and contrary to law, and consequently directing the 2nd respondent to register the sale deed presented by the petitioner on 10.12.2025 pertaining to the property comprised in S.Nos.87/1, 87/3B and 87/3C, admeasuring in total 4 acres and 40 cents situated at Vandari Village, Peraiyur Taluk, Madurai District.



W.P.(MD) No.36595 of 2025

For Petitioner : Mr.R.Sri Ram
For Respondents : Mr.K.S.Selvaganesan,
Addl. Govt. Pleader

ORDER

This Writ Petition is filed challenging the impugned refusal check slip issued by the 2nd respondent in Refusal check-slip No.RFL/Elumalai/105/2025, dated 10.12.2025 and also seeking for a consequential direction to the 2nd respondent to register the sale deed presented by the petitioner on 10.12.2025 pertaining to the property comprised in S.Nos.87/1, 87/3B and 87/3C, admeasuring in total 4 acres and 40 cents situated at Vandari Village, Peraiyur Taluk, Madurai District.

2. By consent, this Writ Petition is taken up for final disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that the petitioner is the absolute owner of the subject property. He initially executed a settlement deed in respect of the subject property in favour of his son one Murugesan on 23.02.2009. After execution of the settlement



W.P.(MD) No.36595 of 2025

deed, the petitioner's son mortgaged the subject property, by virtue of registered document No.2216/2009, dated 28.05.2009 and 15.06.2009.

According to the petitioner, the said mortgage is continues as on date.

While being so, since the petitioner's son Murugesan has failed to care the petitioner, the petitioner has approached the Revenue Divisional Officer, Usilampatti. After conducting enquiry, the Revenue Divisional Officer, vide order in Pa.Mu.No.1145/2021/A4, dated 22.12.2022, has cancelled the settlement deed executed in favour of the petitioner's son dated 23.02.2009. Thereafter, the petitioner has entered into an agreement to sell the subject property in favour of his granddaughter, who is the daughter of petitioner's another son viz., Karuppiah. When the sale deed was presented for registration, the same was refused to be registered stating that since the mortgage has not been cancelled, the sale deed cannot be accepted for registration. Challenging the same, the petitioner has filed this Writ Petition.

4. The learned Additional Government Pleader appearing for the respondents would submit that though the petitioner has cancelled the settlement deed executed in favour of his son, the mortgage deed executed by him was not cancelled. Therefore, the 2nd respondent refused to registered the sale deed presented by the petitioner.



W.P.(MD) No.36595 of 2025

5. I have considered the rival submissions made by both sides and also perused the materials available on record.

6. There is no dispute on the aspect that the petitioner's son has mortgaged the property by virtue of mortgage deed dated 28.05.2009 and 15.06.2009 and the same is existing as on date. This Court is of the view that even if the subject property is mortgaged, the same will not be a bar to sell the subject property to any one. But in the event if any sale is made, the same will be along with the mortgage. Even after the sale, the mortgager will have the first right over the property. If the value of the property is over and above the mortgage amount, then the purchaser have a right in respect of the said property for the remaining portion. On the said aspect, the law has been settled by this Court as well as the Hon'ble Apex Court. Therefore, I do not find any impediment for the 2nd respondent to register the sale deed executed by the petitioner.

7. In such view of the matter, the impugned check slip issued by the 2nd respondent is set aside and the Writ Petition is allowed. The petitioner is directed to represent the sale deed dated 10.12.2025. After representation, the 2nd respondent is directed to register the same



W.P.(MD) No.36595 of 2025

forthwith. It is made clear that any sale is made will be subject to the mortgage deed dated 28.05.2009 and 15.06.2009. To that extent, the interest of the mortgager is protected. There shall be no order as to costs.

05.01.2026

Index : Yes/No
Internet: Yes/No
Neutral Citation: Yes/No

vsm

To

1.The District Registrar,
Madurai South Registration District,
171, Palace Road,
Madurai – 625 001.

2.The Sub Registrar,
Elumalai Sub-Registrar Office,
Elumalai, Madurai District.

KRISHNAN RAMASAMY, J.



WEB COPY



W.P.(MD) No.36595 of 2025

vsm

W.P.(MD)No.36595 of 2025

05.01.2026