

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2017

CORAM

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

W.P.No.25018 of 2016 &

W.M.P.No.21440 of 2016

Kavithamani ...Petitioner

Vs

1. Inspector General of Registration,  
Office of the Inspector General of Registration,  
Santhome High Road,  
Chennai - 600 028.
2. The Sub Registrar,  
Sub Registration Office,  
Sulur,  
Coimbatore - 641 402. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent proceedings dated 01.07.2016 refusing to register the settlement deed dated 29.06.2016 presented by the petitioner on 01.07.2016 by issuing a Audited slip-2 and quash the same and consequently direct the 2nd respondent to register the settlement deed dated 29.06.2016 without insisting the production of a probate or letters of administration of Will dated 21.04.2010 executed by the petitioner's father namely M.Balasubramaniam from a competent Court.

For Petitioner : Mr.G.Krishna Kumar

For Respondents: Mr.A.N.Thambidurai,  
Special Government Pleader

O R D E R

Heard Mr.G.Krishna Kumar, learned counsel for the petitioner and Mr.A.N.Thambidurai, learned Special Government Pleader for the respondents.

2. The above Writ petition has been filed by the petitioner to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent in proceedings dated 01.07.2016, refusing to register the Settlement Deed dated 29.06.2016, presented by the petitioner on 01.07.2016 by issuing a Audited slip-2 and to quash the same and consequently direct the second respondent to register the Settlement Deed dated 29.06.2016, without insisting the production of a probate or letters of administration of Will dated 21.04.2010, executed by the petitioner's father namely, M. Balasubramaniam, from a competent Court.

3. By the impugned order dated 01.07.2016, the second respondent returned the Settlement Deed, stating that the Will dated 21.04.2010, have to be probated before a Civil Court and only after the probate, the document can be registered.

4. Admittedly, the property is in Coimbatore and therefore, the probate of the Will is not mandatory. Further, the probate is only optional. If any party is aggrieved over the execution of the Settlement Deed dated 29.06.2016, he/she can always challenge the said Settlement Deed before the competent Civil Court.

5. In these circumstances, I am of the considered view that the impugned order dated 01.07.2016 is liable to be set aside. Accordingly, the same is set aside. The petitioner shall present the document within one week from the date of receipt of copy of this order and on receipt of the same, the 2<sup>nd</sup> respondent is directed to register the same within two weeks thereafter, it it is otherwise in order. It is also made clear that mere registration of the document shall not stand in the way of any aggrieved party in challenging the Settlement Deed dated 29.06.2016, in accordance with law.

With these observations, the Writ Petition is allowed. No costs. Consequently, connected Miscellaneous petition is closed.

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Sd/-  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

gsa/rg

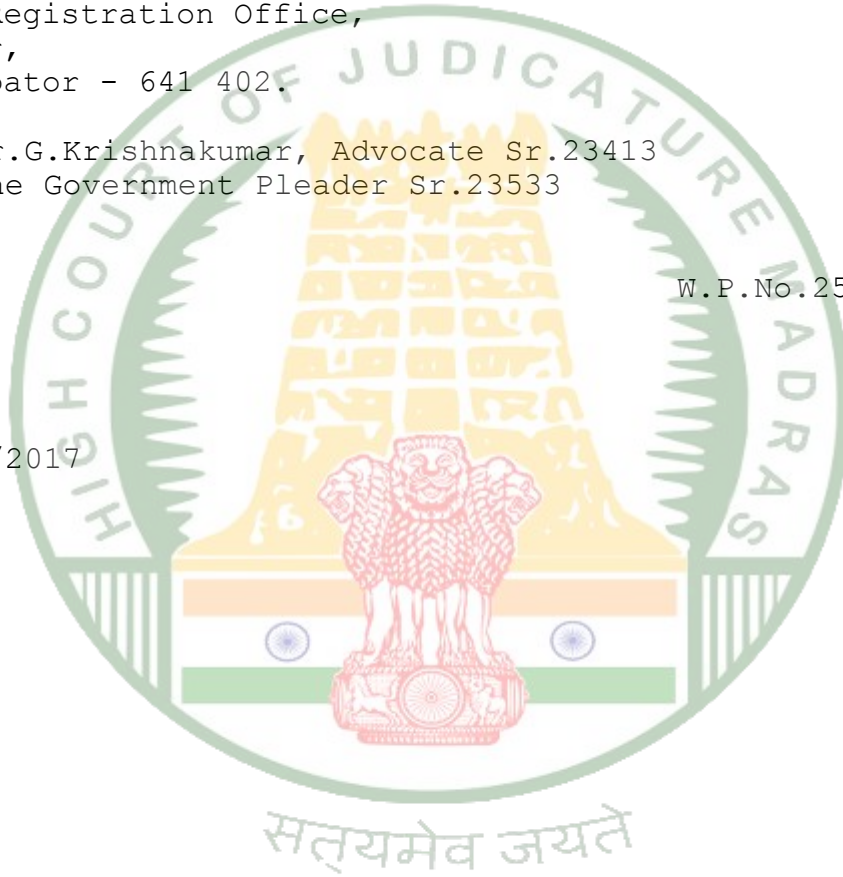
To

1. The Inspector General of Registration,  
Office of the Inspector General of Registration,  
Santhome High Road,  
Chennai - 600 028.
2. The Sub Registrar,  
Sub Registration Office,  
Sulur,  
Coimbatore - 641 402.

+1cc to Mr.G.Krishnakumar, Advocate Sr.23413  
+1cc to the Government Pleader Sr.23533

W.P.No.25018 of 2016

ssi[co]  
srg 26/04/2017



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