

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2019

CORAM

THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

W.P. No. 7274 of 2018

1. P. Appandaraj
2. P. Jinakumar

... Petitioners

-vs-

1. The District Registrar,
Thiruvannamalai District,
Thiruvannamalai.
2. The Sub Registrar,
Chetpet Sub Registrar Office,
Thiruvannamalai District.
3. Sakkaravarthi

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the Second Respondent to register the Will dated 05.04.2009 which is confirmed by the probate order passed in probate original petition No. 1 of 2014 by the District Judge, Thiruvannamalai on the basis of the Petitioners representation dated 10.06.2017.

For Petitioners: Mr. S. Venkatesh

For Respondents: T.M. Pappiah for R1 and R2,
Special Government Pleader

No appearance for R3

O R D E R

The Writ Petition has been filed for directing the Second Respondent to register the Will dated 05.04.2009 which is confirmed by the probate order passed in probate Original Petition No. 1 of 2014 by the District Judge, Thiruvannamalai on the representation dated 10.06.2017 made by the Petitioners.

2. The First and Second Respondents have filed Counter Affidavit stating that under Section 23 of the Registration Act, 1908, a copy of the decree should be presented within four months.

3. In this context, reference may be made to Section 23 of the Registration Act, 1908, which reads as follows:

"23. Time for presenting documents subject to the provisions contained in Sections 24, 25 and 26, no document other than a will shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution:

Provided that a copy of decree or order may be presented within four months from the day on which the decree or order was made, or, where it is appealable, within four months from the day on which it becomes final."

It is evident on a plain reading of the aforesaid statutory provision that it has no application to registration of Will as in this case. In view of the same, the refusal of the Second Respondent to register the Will presented for registration cannot be countenanced. Resultantly, the Second Respondent shall take necessary action on the representation dated 10.06.2017 made by the Petitioners for registration of the Will, if it is otherwise in order.

4. Accordingly, the Writ Petition is disposed on the aforesaid terms. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vji/gsa

To

1. The District Registrar,
Thiruvannamalai District, Thiruvannamalai.

2. The Sub Registrar,
Chetpet Sub Registrar Office,
Thiruvannamalai District.

+1cc to Mr. S. Venkatesh, Advocate SR.No. 74257

+1 cc to Government Pleader Sr.No. 75600

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A.SK(18/09/2019)