



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P (MD)No.8346 of 2019

G.Ennamuthammal

... Petitioner

Vs.

1.The Registrar of Registration,
Thoothukudi District,
Thoothukudi.

2.The Sub-Registrar,
The Sub-Registrar Office,
Udangudi,
Thoothukudi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned / rejection order RFL/Udangudi/2/2019 dated 11.02.2019 passed by the second respondent as which is contrary to the statute and quash the same and also to direct the second respondent to register the petitioner's Will dated 11.02.2019 immediately.

For Petitioner : Mr.V.Rajiv Rufus

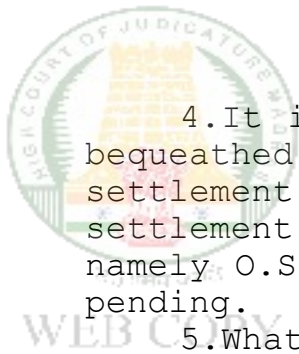
For Respondents : Mr.M.Murugan,
Government Advocate.

ORDER

Mr.V.Rajiv Rufus, learned counsel on record for writ petitioner and Mr.M.Murugan, learned Government Advocate on behalf of both respondents are before this Court.

2. With consent of learned counsel on both sides, main writ petition is taken up, heard out and is being disposed of.

3.Writ petitioner presented a Will dated 11.02.2019 on the same day for registration with the second respondent, whom this Court is informed is the jurisdictional Sub-Registrar. The jurisdictional Sub-Registrar passed a 'refusal order refusing to register on the same day ie., 11.02.2019 bearing Reference பதிவு, மறுப்பு, வரிசை எண் .RFU/உடன்குடி/2/2019' (hereinafter referred to as 'impugned order' for brevity). The only reason / ground on which impugned order came to be passed is 'original document not produced'.



4.It is the case of writ petitioner that property which is now bequeathed under the aforementioned Will was settled on her vide a settlement deed dated 18.12.1963. It is also submitted that settlement deed has been filed in a civil Court where a civil suit namely O.S.No.65 of 2018 on the file of Sub Court, Thiruchendur is pending.

5.What is of significance is, writ petitioner has obtained a certified copy of the settlement deed, dated 18.12.1963 from the said Court ie., District Munsif Court, Thiruchendur. It is submitted that suit is pending even as of today.

6.As the suit is pending even as of today, as there is no disputation that original document has been filed in the suit as certified copy of the settlement deed, which is the parent document for the testator has been obtained from the Court in which civil suit is pending and produced, second respondent is directed to accept the certified copy issued by the Court in place of original document sought for vide impugned order, process registration of aforementioned Will presented by writ petitioner on 11.02.2019, proceed further in accordance with law and carry it to its logical end.

7.Instant Writ Petition is ordered with above directions. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

ps

To

1.The Registrar of Registration,
Thoothukudi District,
Thoothukudi.

2.The Sub-Registrar,
The Sub-Registrar Office,
Udangudi,
Thoothukudi District.

+1 CC to M/s.V.RAJIV RUFUS, Advocate (SR-100792[F] dated 22/11/2019)

W.P (MD) No.8346 of 2019

22.11.2019

KK/SAR/09.12.2019/2P-4C/