



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.10.2019**

CORAM:

THE HONOURABLE **MR. JUSTICE M. SUNDAR**

W.P(MD)No.20922 of 2019

WEB COPY

S.Ponnusamy

... Petitioner

Vs.

1. The District Registrar,
District Registrar Office,
District Collector Office Campus,
Dindigul, Dindigul District.

2. The Sub-Registrar,
Registrar Office,
Chinnalapatti,
Dindigul 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 pursuant to the impugned order of the second respondent vide proceedings in check slip refusal No.RFL/Chinnalapatti/24/2019, dated 06.09.2019 and quash the same as illegal and against the section and procedure under the Registration Act and direct the second respondent to register the settlement deed dated 06.09.2019 executed by the petitioner.

For Petitioner : Mr.S.Sarvagan Prabhu

For Respondents :Mr.V.Anand
Government Advocate

ORDER

Mr.S.Sarvagan Prabhu, learned counsel on record for writ petitioner and Mr.V.Anand, 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. The crux and gravamen of this writ petition has been captured, encapsulated and set out in earlier proceedings of this Court dated 27.09.2019, which reads as follows:

'Mr.S.Sarvagan Prabhu, learned counsel on behalf of writ petitioner is before this Court.

2. Learned counsel for writ petitioner submits that a settlement deed wherein writ petitioner is settling his



property in favour of his two (2) sons being settlement deed dated 06.09.2019 was presented in the office of the second respondent (jurisdictional Sub-Registrar) on the same day ie., 06.09.2019 and on the same day ie., 06.09.2019, the second respondent issued a refusal check slip and only reason for refusal reads as follows:

'Reason for Refusal:

1.Others: Unregistered will. The document refused and the document return to party.'

3. Adverting to Section 18 (e) of 'Registration Act, 1908' (hereinafter referred to as 'said Act' for the sake of brevity), learned counsel for writ petitioner submits that registration of a Will is optional and therefore, refusal to register the settlement deed solely on the ground that settlor's title is derived from an unregistered Will is clearly not tenable in law.

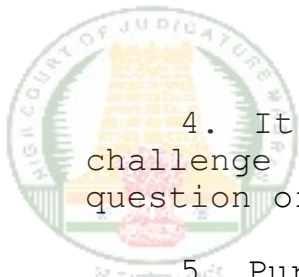
4. To be noted, it is the case of the writ petitioner that writ petitioner before this Court is settlor of the property bequeathed on him by his father's elder brother (blood brother) one S.Palanisamy vide an unregistered will 20.12.1997. Also to be noted, the subject matter of settlement deed is agricultural land admeasuring 11.56 cents or thereabouts comprised in S.No.246/1B3A in Seevalsaragu Village, Aathur Taluk, Dindigul District (hereinafter referred to as 'said land' for the sake of brevity).

5. Mr.V.Anand, learned Government Advocate, who accepts notice on behalf of both the respondents seeks time to get instructions and revert.

6. Registry to show name of the State Counsel in the next listing.

7. List in the motion list on **01.10.2019.** ' '

3. Today, learned State Counsel, after obtaining instructions, submits that the only ground of which the second respondent has issued impugned refusal check slip (hereinafter 'impugned order' for brevity) is that the settlor has got the property bequeathed on him by an unregistered Will. In other words, it is the stated position of learned State Counsel that there is no other impediment in registration of the aforementioned settlement deed which has been presented for registration by writ petitioner.



4. It therefore emerges clearly that the entire matter ie., challenge to the impugned order now turns on a pure and pristine question of law with no disputed fact at all.

5. Pure and pristine question of law is whether a Will ie., a testament is compulsorily registrable. A straight forward and clear answer is available in Section 18 (e) of the Registration Act, 1908 ('said Act' for brevity) which reads as follows:

'18.Documents of which registration is optional:- Any of the following documents may be registered under this Act, namely:-

(a)....

(b)....

(c)....

(d)....

(e) Wills; and

..... '

There is no disputation or disagreement about the aforesaid obtaining legal position.

6. It therefore follows as an inevitable sequitur that the impugned order is liable to be set aside. The impugned order being check refusal No.RFL/Chinnalapatti/24, 2019, dated 06.09.2019 is set aside.

7. The settlement deed dated 06.09.2019 presented for registration was returned to writ petitioner. Writ Petitioner undertakes to represent the same for registration before second respondent within a fortnight from the date of receipt of a copy of this order. Second respondent shall thereafter process registration of the aforementioned settlement deed in accordance with law and complete the process of registration within a period of six (6) weeks therefrom, subject to other requirements for registration being satisfied.

8. Impugned order is set aside and writ petition is disposed of with above directions. There shall be no order as to costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)



To

1. The District Registrar,
District Registrar Office,
District Collector Office Campus,
Dindigul, Dindigul District.

2. The Sub-Registrar,
Registrar Office,
Chinnalapatti,
Dindigul District.

+1 CC to MR.S.SARAVAGAN PRABHU, Advocate (SR-91108[F] dated
03/10/2019)

+1 CC to SPL .GP (SR-91214[F] dated 03/10/2019)

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