

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.4015 of 2019

ORDER:

The petitioner assails the action of the Joint Sub-Registrar-I, Regional Office (Red Hills), Hyderabad, respondent No.3, in requiring him to comply with the conditions mentioned in letter dated 10.01.2019 as a condition precedent for issuing him a certified copy of the Will deed dated 19.8.1958 which was deposited by the testator under Section 42 of the Registration Act, 1908 (for brevity, the Act of 1908').

Perusal of the letter dated 10.01.2019 demonstrates that respondent No.3, while referring to the application of the petitioner for issuance of a certified copy of the Will deed deposited by the testator, Balaji Singh, S/o Narayana Singh, in the year 1958, requested the petitioner to produce the following documents:

- " (1) Death certificate of the testator i.e., Sri Balaji Singh.
- (2) As per Section 43, the legible inscription used to seal the cover.
- (3) Original receipt, if any, received while depositing the Will in sealed cover."

Aggrieved by these conditions imposed by respondent No.3 as a condition precedent for issuance of a certified copy of the Will deed, the petitioner is before this Court.

Perusal of the Will deed in question reflects that even as on the date of its execution, Balaji Singh, S/o Narayana Singh, was aged 58 years. This Will deed was admittedly deposited with the registration authorities under Section 42 of the Act of 1908 in the year 1958. It would therefore be highly improbable that Balaji Singh would still be alive as on date.

According to Sri Pramod Singh, learned counsel for the petitioner, his client purchased the property belonging to the aforestated testator

from his widow long ago and in the litigation which went up to the Supreme Court, the widow of the testator was named in the cause title describing her as such.

Perusal of Sections 42 and 45 of the Act of 1908 demonstrates that all that the Registrar is required to do is to satisfy himself that the testator is dead and no more. It is not open to respondent No.3 to insist upon any legible inscription or an original receipt being produced at this late point of time by the petitioner. Section 43 of the Act of 1908 reflects that these steps are required to be taken by the registration authority before placing the Will deed in a sealed cover and retaining it in his custody in a fire-proof box.

In that view of the matter, the Writ Petition is disposed of directing respondent No.3 to furnish a certified copy of the Will deed dated 19.8.1958 executed by Balaji Singh, S/o Narayana Singh, which is kept in his custody, under Section 42 of the Act of 1908, to the petitioner, upon payment of the usual charges, without insisting on any condition. This exercise shall be completed expeditiously and in any event, not later than two weeks from the date of receipt of a copy of this order, be it from whatever source.

Pending Miscellaneous Petitions, if any, shall stand closed in the light of this final order. No order as to costs.

27th February, 2019
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JUSTICE SANJAY KUMAR