



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.11.2020

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD)No.16541 of 2020

V.Ramaprasad

... Petitioner

Vs.

The Sub Registrar,
Woraiyur,
Office of the Sub Registrar,
Tiruchirapalli,
Tiruchirapalli District.

... Respondent

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorari Mandamus, to call for the records relating to the impugned Check Slip No.36 of 2020 issued by the respondent and to quash the same as illegal and ultravires and consequently direct the respondent to register and release the settlement Deed dated 18.09.2020 presented by the petitioner.

For Petitioner : Mr.M.Ashokkumar

For Respondent : Mr.K.Sathiya Singh

n Additional Government Pleader

ORDER

The petitioner has come forward with this Writ Petition, to call for the records relating to the impugned refusal Check Slip No.36 of 2020 issued by the respondent and to quash the same as illegal and ultravires and consequently direct the respondent to register and release the settlement Deed dated 18.09.2020 presented by the petitioner.

2. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3. Heard the learned counsel for the petitioner as well as Mr.K.Sathiya Singh, learned Additional Government Pleader, who accepts notice on behalf of the respondent.

4. According to the petitioner, the property comprised in old Block 6, old No.226/1-A Part, old Ward -D, Present Ward 44, New Block -15, New T.S.15, New T.S.91, Plot No.C-58/west Extension measuring 4914 sq.ft., situated at Tiruchirappalli Town, Tiruchirappalli Corporation was allotted to one Saraswathi, who is the petitioner's paternal aunt, by the Tiruchirappalli Housing Society. The said Saraswathi was a member of the society with Membership Number 1036. After allotment and handing over the plot, the said Saraswathi built a house and the same was possessed and enjoyed by her. After payment of the entire due for the sale,⁰ the Thillai Nagar Society had executed a conveyance deed in favour of



the said K.Saraswathi, dated 07.10.1993 (S.R.O Woraiyur Doc.No.3243 of 1993). Since, the sale deed was duly registered, there was mutation of records in her name and she was paying House Tax and other Taxes and Electricity charges in her name, till her lifetime. The said Saraswathi had executed a Will dated 21.10.1984 bequeathing the said house in favour of the petitioner and the same is an unregistered one. After her demise, as per the Will, the petitioner is in possession and enjoyment of the same and now the petitioner executed a settlement deed dated 18.09.2020 in favour of his son and presented the same for registration before the respondent on 25.09.2020. But the respondent had returned the document with temporary number TP/95353397/2020 Vide Check Slip No.36/2020 dated 25.09.2020 stating that since the parent document is an unregistered WILL and the present document can be registered only after obtaining patta in the petitioner's name. Hence, the petitioner has approached this Court with the aforesaid prayer.

5. The only ground of the rejection by the Sub Registrar is that the Will based on which settlement deed executed in favour of the petitioner has not been registered. Reading of Section 18(e) of the Registration Act, 1908, would make it very clear that registration of Will is only optional and not mandatory unlike Section 17 of the Registration Act, 1908. In view of the same, unless and otherwise there is an objection from any third parties that the petitioner has no right over the property, the authority need not reject on the ground that the Will has not been registered. Hence, the order impugned shall be interfered.

6. For the reasons stated above, this Court, by interfering the impugned order, directs the Sub Registrar to conduct enquiry and pass appropriate orders in accordance with law, after hearing the petitioner as well as the interested parties and he can also go into the genuineness of the Will and thereafter, register the document. The said exercise shall be completed within a period of ninety(90) days from the date of receipt of a copy of this order.

7. This Writ Petition is disposed of with the above directions. No costs.

Sd/-

Assistant Registrar (Crl.side)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

<https://hcservices.ecourts.gov.in/hcservices/>



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

WEB COPY

To

The Sub Registrar,
Woraiyur,
Office of the Sub Registrar,
Tiruchirapalli,
Tiruchirapalli District.

+1CC to M/s.SPL GP,SR.No.22616 dated 24/11/2020

+1CC to Mr.M.Ashok Kumar. Advocate SR.No.22488 dated 23/11/2020

W.P. (MD)No.16541 of 2020
23.11.2020

SRK(CO)
KB(06.01.2021) 3P 4C