

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2021

CORAM: JUSTICE N.SESHASAYEE

WP.No.7526 of 2021
&WMP.No.8047 of 2021

...Petitioner

E.Mariyaraj

-Vs-

1.The Inspector General of Registration,
Santhome High Road,
Chennai-600 028.

2.The Sub Registrar,
Sathyamangalam Sub Registrar Office,
Erode District.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the refusal check slip of the second respondent in No.RFL/Sathyamangalam/42/2020 dated 18.07.2020 and quash the same and consequently direct the respondents to entertain the cancellation of Will of the petitioner dated 14.07.2020 and register the same as document.

For Petitioner : Mr.C.K.M.Appaji
For R1 & 2 : Mr.T.M.Pappiah
Special Government Pleader

ORDER

This Writ Petition is filed seeking for issuance of a Certiorarified Mandamus, calling for the records pertaining to the refusal check slip of the second respondent in No.RFL/Sathyamangalam/42/2020 dated 18.07.2020 and quash the same and consequently direct the respondents to entertain the cancellation of Will of the petitioner dated 14.07.2020 and register the same as document.

2.The petitioner, who has obtained certain property under a Sale Deed, has executed earlier Will dated 04.04.2016 registered as document no.68/2016. Now, he wants to cancel the said document through another registered document. The registration however, was refused by the concerned Sub Registrar on the ground that the earlier Will was not produced.

3.Mr.T.M.Pappiah, learned Special Government Pleader appearing for the respondents 1 & 2 submitted that a copy of the earlier Will is required in terms of the format for On-Line registration procedure.

4.It has to be made clear that under a Will, no title is transferred, and the testator can execute any number of Wills at will, for which he can cancel any number of his earlier Wills. Therefore, non-production of the earlier Will cannot be an impediment, since the testator does not convey title in presenti to the legatee under the Will. Procedurally it is not required either.

5.Therefore, this Court is not able to appreciate the reason for refusal by the Sub-Registrar concerned. Having stated thus, to comply with the procedure as is presently available, the Sub-Registrar may prepare a certified copy of the earlier Will, which may be substituted and proceed to register the document cancelling the earlier Will.

6.The Writ Petition is allowed accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS III)

/TRUE COPY/

Sub-Assistant Registrar

dn
To

1.The Inspector General of Registration,
Santhome High Road,
Chennai-600 028.

2.The Sub Registrar,
Sathyamangalam Sub Registrar Office,
Erode District.

+1CC TO MR.C.K.M.APPAJI, ADVOCATE, SR.NO. 19408
+1CC TO M/S.GOVERNMENT PLEADER, SR.NO. 19358

W.P.No.7526 of 2021

PCH (CO)
KKN 27.04.2021