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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 09.04.2021

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.3549 of 2013

1.S.Yuvaraj
2.S.Paramakalyani
3.S.Revathi

...Petitioners

.Vs.

The District Registrar,
North Chennai
North Chennai Registration Office,
Chennai - 600 015.

...Respondent

[Respondent amended as per order
dated 16/12/2016 in M.P.No.1/2013]

Prayer: Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Mandamus directing the respondent herein to return the document deposited in a sealed cover by Late V.Sekar through registered Document No.48/8123/89 dated 03.09.1986 to the petitioner's based on the legal heir certificate of V.Sekar, without insisting on the receipt issued at the time of registration.

For Petitioners : Mrs.Girija Velmurugan

For Respondent : Mr.B.Kannan
Government Advocate

ORDER

The prayer sought for herein is for a writ of mandamus directing the respondent herein to return the document deposited in a sealed cover by Late V.Sekar through registered Document No.48/8123/89 dated 03.09.1986 to the petitioners based on the legal heir certificate of V.Sekar, without insisting on the receipt issued at the time of registration.



2.It is the case of the petitioners that the first and third petitioners father one Sekar during his lifetime has submitted a Will in the respondent office and subsequently he died and at the time of the deposit of the Will by the first and third petitioners father who is the husband of the second petitioner, the first and third petitioners were minor and also the second petitioner was not in a position to keep the original receipt intact. Therefore, when they made a request after the death of the said V.Sekar with legal heir certificate to the respondent for giving the copy of the Will, it seems that, the respondent had sent a communication dated 14.05.2012 stating that, for getting the Will deposited by Sekar, the original receipt and other relevant or required particulars should be furnished by the petitioners and after furnishing the same, they can get it from the respondent office. Aggrieved over the same, the petitioners have approached this Court by filing the present writ petition seeking a direction by way of mandamus to the respondent to furnish the document i.e. Will deposited by his father.

3.Reiterating the aforesaid facts, Mrs.Girija Velmurugan, learned counsel appearing for the petitioners would submit that, at the time of depositing the Will document, the first petitioner being the son of the deceased was a minor and the third petitioner also was minor, the second petitioner wife also was not in a position to keep the receipt intact as that was dealt with by the deceased V.Sekar, therefore, they were not in a position to produce the original receipt, however, they have produced the other particulars pertaining to the Will in question. Therefore, based on other particulars supplied by the petitioners, the respondent can very well take the copy of the Will and give back to the petitioners, however the said action has not been taken by the respondent. Therefore, the petitioners have approached this Court by filing this writ petition with the aforesaid prayer, hence, she seeks indulgence of this Court to issue a mandamus as prayed for.

4.However, Mr.B.Kannan, learned Government Advocate appearing for the respondent would submit that, ultimately the original receipt to have the proof that the Will has been deposited, should be produced before the registering authorities to get back the Will document and if the same has not been produced, it is very difficult to find out what is the exact Will document that they have to return back and that is the reason why the said communication had been sent by the Registration Department i.e. the respondent on 14.05.2012. Therefore, once the petitioners come forward to produce the original receipt, definitely the Will document, they sought for to be returned back can be found out and would be returned to them.



5.I have heard the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

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6.No doubt, normally the original receipt may be required by the Registration Department for giving back the Will deposited by the person who written the Will. In this case, the father of the first and third petitioners V.Sekar during the lifetime written the Will and deposited in the respondent office and subsequently he died and at the time of depositing the same, the first and third petitioners were minor and the second petitioner being the wife of the deceased also was not in a position to keep the original receipt intact and that could have been dealt with only by the deceased V.Sekar.

7.In that circumstances, it cannot be expected at this stretch of time to produce the original receipt.

8.However, as submitted by the learned counsel appearing for the petitioners, the other particulars which are very much available with the petitioners including the legal heir certificate, which establishes the fact that the petitioners are the legal heirs of the deceased V.Sekar, have already been produced by the petitioners. Therefore, on that count, there cannot be any further impediment for the respondent to receive what are all the available particulars and documents from the petitioners and based on which, the respondent can find out the Will in question and can return back the same to the petitioners.

9.In that view of the matter, this Court feels that, a detailed request/ representation giving all available particulars with the petitioners can be made to the respondent within a time frame and based on the particulars to be given by the petitioners, the needful can be done by the respondent within a time frame.

10.In view of the above, this Court is inclined to dispose of this writ petition with the following orders.

That the petitioners are hereby permitted to give a detailed representation/request to the respondent giving details pertaining to the Will in question written by the said V.Sekar, and the legal heir certificate and other relevant documents or particulars along with the application and such application or representation shall be submitted by the petitioners to the respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt



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of the same, the respondent shall take every endeavour to find out the Will and accordingly shall return back the Will to the petitioners after satisfying that the petitioners are the legal heirs of the deceased V.Sekar. The needful as indicated above shall be undertaken by the respondent within a period of eight weeks thereafter.

11. With this direction, this Writ Petition is disposed of.
No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Sgl

To

The District Registrar,
North Chennai
North Chennai Registration Office,
Chennai - 600 015.

+1cc to Mr.Velmurugan, Advocate, S.R.No.22400

W.P.No.3549 of 2013

PMK (CO)
RN(11/05/2021)