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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.15005 of 2021

V.Peruma

... Petitioner

-Vs-

The Sub Registrar,
Magudanchavadi Sub Register Office,
Sankari Taluk,
Salem District.

... Respondent

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned Refusal Check Slip in Refusal Number:RFL/Magudanchavadi/1/2021, dated 11.02.2021 and quash the same as illegal and consequently direct the respondent to register the Gift Settlement Deed document dated 09.02.2021 based on the WILL dated 05.10.2020 in respect of land to an extent of 57 cents, comprised in Survey No.136/5B and to an extent of 59 cents, comprised in Survey No.136/6, situated at Edangana Salai Village, Sankari Taluk, Magudanchavadi, Salem District, within a stipulated time fixed by this Hon'ble Court.

For Petitioner : Mr.N.Vijaya Basker

For Respondent : Mr.Yogesh Kannadasan
Special Government Pleader.

ORDER

This Writ Petition has been filed for the issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned Refusal Check Slip in Refusal Number:RFL/Magudanchavadi/1/2021, dated 11.02.2021 and quash the same as illegal and consequently direct the respondent to register the Gift Settlement Deed document dated 09.02.2021 based on the WILL dated 05.10.2020 in respect of land to an extent of 57 cents, comprised in Survey No.136/5B and to an



extent of 59 cents, comprised in Survey No.136/6, situated at Edangana Salai Village, Sankari Taluk, Magudanchavadi, Salem District, within a stipulated time fixed by this Hon'ble Court.

2. Heard Mr.N.Vijaya Basker, learned counsel appearing for the petitioner and Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondent.

3. The petitioner executed a settlement deed in favour of her son in respect of the property comprised in Survey No.136/5B to an extent of 57 cents and the property comprised in Survey No.136/6 to an extent of 59 cents situated at Edangana Salai Village, Sankari Taluk, Magudanchavadi, Salem District. Originally, the said property belong to her mother and she executed a Will in favour of the petitioner's brother on 04.04.2001, registered vide Document No.26 of 2001. In turn, her brother executed an un-registered Will in favour of the petitioner on 05.10.2020. On the strength of the said Will, the petitioner claimed the property and executed a settlement deed in favour of her son, after the death of her brother on 16.10.2020.

4. The Settlement deed was presented for registration before the respondent and the same was returned by an impugned check slip for the reason that the petitioner was not present at the time of registration of the document and the petitioner claimed the title over the property through the registered Will and she also failed to mention the Survey Numbers.

5. As per Section 18(e) of the Registration Act, 1908, the document of which the registration is optional, includes the will. Therefore, the registration is not compulsory for the document of will. Hence, the respondent cannot insist for registering the will under which the subject property has to be claimed by the petitioner.

6. Considering the above, the impugned check slip is liable to be set aside. Accordingly, the impugned check slip in Refusal Number: RFL/Magudanchavadi/1/2021, dated 11.02.2021, is hereby quashed.

7. The petitioner is directed to re-present the settlement deed, dated 09.02.2021 for registration before the respondent and on receipt of the same, the respondent is directed to register and release the same, if otherwise in order.



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8. With the above directions, this writ petition stands allowed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

Mn

To

The Sub Registrar,
Magudanchavadi Sub Register Office,
Sankari Taluk,
Salem District.

+1cc to Mr.Law Vision, Advocate SR.No.64523
+1cc to the Government Pleader SR.No.65318
+1cc to Mr.Law Vision, Advocate SR.No.64523(12/01/2022)

W.P.No.15005 of 2021

PL(CO)
GN(27/12/2021)