



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.09.2021

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THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.15950 of 2021

and

W.M.P(MD) No.12884 of 2021

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R.Vellaisamy

... Petitioner

Vs.

- 1.The Inspector General of Registration,
Office of the Inspector General of Registration,
Chennai - 600 028.
- 2.The Deputy Inspector General of Registration,
Office of the Deputy Inspector General of Registration,
Madurai, Madurai District.
- 3.The District Registrar,
Office of the District Registrar,
Ramanathapuram,
Ramanathapuram District.
- 4.The Sub-Registrar No.2,
Joint Sub-Registrar Office,
Ramanathapuram.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the third respondent herein in his proceedings in Na.Ka.No.1213/A1/2021 dated 05.04.2021 and quash the same as illegal, consequently direct the fourth respondent to register the Will dated 10.06.2008 of his father late Mr.Ramaiah presented by the petitioner in accordance with law.

For Petitioner : Mr.K.Sathish Kumar
For Respondents : Mr.K.S.Selva Ganesan
Counsel for State

ORDER

The matter is listed today under the caption "For Being Mentioned".

2.The petitioner challenges an order dated 05.04.2021 of the third respondent by which the request of the petitioner to register a Will dated 10.06.2008 was rejected.



3.The petitioner states that his father executed an unregistered Will dated 10.06.2008 by which fourteen (14) items of property were bequeathed in his favour. After executing the Will, it is stated that the petitioner's father passed away on 05.01.2009. Much after his father's death, the petitioner presented the unregistered Will for registration before the fourth respondent on 27.03.2021. The fourth respondent refused to register the said Will. Therefore, the petitioner made a representation on 03.04.2021 to the third respondent. By impugned order dated 05.04.2021, the third respondent refused to register the Will on the ground that the Registration Act, 1908 (the Registration Act) does not contain any provision for the registration of a Will after the death of the testator.

4.Mr.K.S.Selva Ganesan, learned counsel for the State, accepts notice on behalf of all the respondents. He submits that the Will was executed on 10.06.2008, whereas the petitioner has endeavoured to register the same on 27.03.2021.

5.The other aspect to be considered is whether a Will dated 10.06.2008 can be registered after the lapse of about 13 years. Section 23 of the Registration Act, which prescribes a time limit for registration is made expressly inapplicable to a Will. In addition, Section 27 thereof specifies that " A Will may at any time be presented for registration or deposit in manner herein after provided". As such, there does not appear to be any time limit as regards the registration of a Will. However, in case a person intends to register a Will after the death of the testator, such person should satisfy the registering authority that he fulfils the requirements of Sections 40 and 41 of the Registration Act. In addition, the procedure in relation to such registration is set out in Chapter XIII of the Tamil Nadu Registration Rules. Therefore, such procedure would have to be adopted in case the petitioner re-submits the Will for registration.

6.On the basis of the above discussion and analysis, the petitioner has made out a case to quash the impugned order dated 05.04.2021. In the long run, it is possible that this may turn out to be a pyrrhic victory; nonetheless, at this juncture, the petitioner is entitled to his day in the sun. For the reasons set out above, the Writ Petition is allowed by quashing the impugned order. As a corollary, the petitioner is permitted to re-present the Will for registration, if so intended, within a period of two (2) weeks from the date of receipt of a copy of this order. Upon receipt thereof, the fourth respondent is directed to consider the petitioner's application for registration by taking into account Sections 23, 27, 40 and 41 of the Registration Act and adopt the procedure prescribed in Chapter XIII of the Tamil Nadu Registration Rules. Such exercise shall be completed within a period of three (3) months from the date of receipt of the re-submitted Will. Upon



conclusion of the inquiry, a reasoned order shall be issued and communicated to the petitioner.

7. Accordingly, W.P.(MD).No.15950 of 2021 stands allowed. Consequently, W.M.P.(MD).No.12884 of 2021 is closed.

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Sd/-

Assistant Registrar (A.D II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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.

To

1. The Inspector General of Registration,
Office of the Inspector General of Registration,
Chennai - 600 028.
2. The Deputy Inspector General of Registration,
Office of the Deputy Inspector General of Registration,
Madurai, Madurai District.
3. The District Registrar,
Office of the District Registrar,
Ramanathapuram,
Ramanathapuram District.
4. The Sub-Registrar No.2,
Joint Sub-Registrar Office,
Ramanathapuram.

+1 CC to M/s.K.SATHISH KUMAR, Advocate (SR-28866[F] dated 13/09/2021)

W.P (MD) No.15950 of 2021
09.09.2021

RS (17.09.2021) 3P 6C