



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.11.2021

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THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD).No.19950 of 2021

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Selvam

... Petitioner

Vs.

The Joint Sub Registrar No.1
Karaikudi,
Sivagangai District.

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pursuant to the impugned refusal slip dated 26.10.2021 of the respondent and quash the same and consequently direct the respondent to register the document presented by the petitioner without insisting for the production of original documents.

For Petitioner

: Mr.J.Anandkumar

For Respondent

: Mr.N.Satheesh Kumar

Additional Government Pleader

ORDER

The writ petition has been filed in the nature of Certiorarified Mandamus, seeking interference with an order of the respondent herein/The Joint Sub Registrar No.1, Karaikudi, who had refused to register a document lawfully presented by the petitioner and had actually issued a refusal slip which is dated, 26.10.2021. Aggrieved by that, the present writ petition has been filed.

2.A perusal of the affidavit filed in support of the Writ petition shows that the property in Survey No.119/5 bearing patta No.60 and measuring 14,375 square feet and which also includes the house with electricity connections and also well, originally belonged to the father of the petitioner by name Karupppiah Ambalam. He also owned several other properties but, with respect to this particular property he had executed a registered settlement deed, dated 25.08.2010, in favour of the mother of the petitioner that document was registered as the Document No.3008, in the office of the respondent herein. The mother thereafter, on the strength of the settlement deed which gave her title to the said property executed a registered Will on 25.08.2010, bequeathing with this particular property along with several other properties, in favour of the brother of the petitioner herein.

3.Various other circumstances intervened unfortunately, within the family and thereafter, disputes had arisen between the mother and the father. The mother died when she was with the petitioner on



01.06.2021. The disputes then continued between the petitioner and the brother. There are cases and the counter cases. The petitioner thereafter, presented a settlement deed for registration on 23.07.2021 before the respondent. The respondent refused to register it, claiming that the original Will should be produced.

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4.The learned counsel for the petitioner pointed out that this demand of the respondent cannot stand scrutiny owing to the fact that the Will had actually been registered in the office of the respondent itself and therefore, if the respondent had any doubt with respect to execution of the Will or with respect to the existence of the Will or with respect to any terms of the Will, the respondent could very well examine the document which is actually available in the same office. It was therefore submitted that the demand to produce the original Will, is arbitrary and as a matter of fact, should be interfered with by this Court.

5.Notice had been directed and Mr.Satheesh Kumar, learned Additional Government Pleader takes notices on behalf of the respondents herein. If at all the respondent has any doubt whether the property mentioned in the settlement deed now presented for registration by the petitioner is covered under the Will or whether under the will the property had been bequeathed to the petitioner or not, the respondent can very well examine the Will which has been presented for registration in the office of the respondent itself.

6.Admittedly, there are disputes in the petitioner's family and it would be highly impossible to get the original copy from a person with whom there is an existing dispute and as stated in the affidavit against whom cases and counter cases have been filed. The respondent under those circumstances, should take a step forward and examine the Will which is available and thereafter, come to a considered conclusion whether the property covered under the settlement deed, could actually be settled by the petitioner. The learned Counsel for the petitioner also placed reliance on similar view taken by learned Single Judge of this Court.

7.I would gladly also uphold the said views and fall in line and take a consistent view as taken by other learned Single Judges and issue a direction to the respondent to register the settlement deed and if at all any subjective satisfaction is to be undertaken then the respondent may examine the Will which is available in the office itself and thereafter, come to subjective satisfaction on independent application of mind.

8.The petitioner is directed to represent the settlement deed on or before 03.12.2021, through proper procedure and if it otherwise in order with respect to payment of stamp duty and registration fees, the respondent may register the same and at any rate, complete the process on or before 17.12.2021 in accordance with the provisions governing registration.



9. With the above direction, the Writ Petition is allowed. No costs.

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// True Copy //

Sd/-

Assistant Registrar (CS-III)

/ /2021

Sub Assistant Registrar(CS)

lr/sn

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

The Joint Sub Registrar No.1,
Karaikudi,
Sivagangai District.

+1 CC to M/s.J. ANANDKUMAR, Advocate (SR-35087[F] dated 18/11/2021)

+1 CC to M/s.SPL GP (SR-35153[F] dated 19/11/2021)

W.P(MD).No.19950 of 2021
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