



WEB COPY



W.P.No.29087 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.29087 of 2022

And

W.M.P.No.28373 of 2022

S.Rajeshwari

... Petitioner

Vs.

1.The Inspector General of Registration,
Santhome High Road,
Mylapore,
Chennai – 600 004.

2.The Sub Registrar,
Kundrathur,
Chennai.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned Refusal Check Slips Refusal No.RFL/Kundrathur/19/ 2022, dated 08.07.2022 and Refusal No.RFL/Kundrathur/18/2022, dated 08.07.2022 and quash the same and consequently direct the second respondent to register the Release Deed and Will presented by the petitioner for registration.



W.P.No.29087 of 2022

For Petitioner : Mr.K.Manickavasagam
For Respondents : Mr.G.Krishna Raja
Additional Government Pleader

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned Refusal Check Slips Refusal No.RFL/Kundrathur/19/ 2022, dated 08.07.2022 and Refusal No.RFL/Kundrathur/18/2022, dated 08.07.2022 and quash the same and consequently direct the second respondent to register the Release Deed and Will presented by the petitioner for registration.

2.The learned counsel appearing for the petitioner submitted that the subject property was purchased by the petitioner's husband E.Sundaram vide sale deed dated 17.05.1984 registered as document no.1617/1984 in the office of the Sub Registrar, Alandur and obtained patta in his favour in patta no.2880. During his lifetime, he executed unregistered Will dated 24.07.2008 bequeathing the property in favour of his wife/ petitioner and two sons namely, Iyyappan and Balaji.



W.P.No.29087 of 2022

3.The learned counsel appearing for the petitioner further submitted that thereafter the petitioner released her 1/3 share of the property in favour of her sons and presented the release deeds before the second respondent for registration, however, the second respondent issued the impugned refusal check slips on the ground that Will cannot be taken as parent document.

4.The learned counsel appearing for the petitioner further submitted that the petitioner, after the demise of her husband obtained legal heir certificate and thereafter, released her share in the property in favour of her sons and further submitted that Will need not be registered and unless there is rival claim, the second respondent refusing to register the release deeds and issuing the impugned refusal check slips is not sustainable one.

5.The learned Additional Government Pleader appearing for the respondents submitted that admittedly Will need not be registered, however, the petitioner has to satisfy before the second respondent that she is the legal heir of the E.Sundaram and further submitted that in the absence of rival any claim, the documents will be registered.



W.P.No.29087 of 2022

WEB COPY

6.The facts of the case is not in dispute. Admittedly, the subject property was purchased by the petitioner's husband E.Sundaram vide sale deed dated 17.05.1984 registered as document no.1617/1984 in the office of the Sub Registrar, Alandur and during his lifetime, he executed unregistered Will dated 24.07.2008 bequeathing the property in favour of the petitioner and two sons namely, Iyyappan and Balaji. After the demise of her husband, the petitioner released her 1/3 share of the property in favour of her sons and presented the release deeds before the second respondent for registration, however, the second respondent issued the impugned refusal check slips on the ground that Will cannot be taken as parent document.

7.The reason assigned by the second respondent in the impugned refusal check slips is un-sustainable one since Will need not be registered and there is no rival claim. Hence, the impugned refusal check slips issued by the second respondent are set aside. The petitioner is directed to re-present the release deeds annexing copies of the death certificate of E.Sundaram; legal heirship certificate; parent document bearing document no.1617/1984



W.P.No.29087 of 2022

including patta. On receipt of the same, the second respondent is directed to entertain the release deeds and pass appropriate orders.

8.The writ petition is allowed in the above terms. No costs.
Consequently, connected miscellaneous petitions are closed.

09.11.2022

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

- 1.The Inspector General of Registration,
Santhome High Road,
Mylapore,
Chennai – 600 004.
- 2.The Sub Registrar,
Kundrathur,
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W.P.No.29087 of 2022

M.DHANDAPANI,J.
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WEB COPY



W.P.No.29087 of 2022

09.11.2022