



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.02.2022**

CORAM:

THE HONOURABLE **MR.JUSTICE ABDUL QUDDHOSE**

W.P.[MD]No.3643 of 2022

R.Rajendran

... Petitioner

/Vs./

The Sub Registrar,
Tirumangalam,
Madurai District.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records of the impugned refusal check slip in Refusal No.RFL/THIRUMANGALAM/1/2022 dated 23.02.2022 issued by the respondent, quash the same as illegal and consequently directing the respondent to register the sale agreement presented by the petitioner on 23.02.2022 in respect of the property comprised in G.R.Survey No.161/36 of Sengulam Village, Thirumangalam Taluk, Madurai District to an extent of 3003 3/4 Sq Feet.

For Petitioner : Mr.RM.Arun Swaminathan

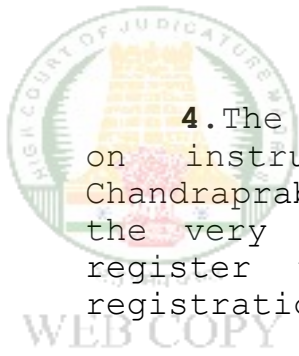
For Respondent : Mr.J.John Rajadurai
Government Advocate

ORDER

This writ petition has been filed challenging the refusal check slip dated 23.02.2022 issued by the respondent. According to the petitioner, he is the absolute owner of the property comprised in G.R.Survey No.161/36 of Sengulam Village, Thirumangalam Taluk, Madurai District, measuring an extent of 3003 3/4 Sq Feet, he, having got the same under a will executed by his grandmother's sister, Chandraprabha, on 12.12.2021, who died on 23.12.2021.

2.The petitioner has presented an agreement of sale for the subject property dated 15.02.2022 for registration with the respondent. Under the impugned refusal check slip dated 23.02.2022, the respondent has refused to register the said agreement of sale on the ground that the petitioner has not obtained probate of the will dated 12.12.2021. Aggrieved by the same, this writ petition has been filed.

3.Heard Mr.RM.Arun Swaminathan, learned counsel appearing for the petitioner and Mr.J.John Rajadurai, learned Government Advocate, appearing for the respondent.



4.The learned Government Advocate appearing for the respondent, on instructions, would submit that earlier the testatrix Chandraprabha had executed and registered a will on 30.11.2021 for the very same property and that is the reason for refusal to register the sale agreement presented by the petitioner for registration.

5.Admittedly, the petitioner has challenged the impugned refusal check slip on the following grounds:

(a) Principles of natural justice have been violated by the respondent for not affording any opportunity of hearing before passing the impugned refusal check slip;

(b) The registered will, which was executed by the testatrix Chandraprabha on 30.11.2021 has been cancelled by her on 12.12.2021, which is also disclosed in the will dated 12.12.2021 executed in favour of the petitioner.

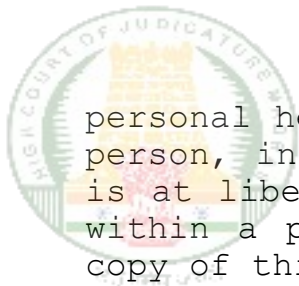
Therefore, according to the petitioner, the respondent ought to have registered the agreement of sale.

6.Admittedly, no opportunity of hearing was granted to the petitioner by the respondent before passing the impugned refusal check slip, except for giving reason that the petitioner has to obtain probate in respect of the will, wherein he has been made as beneficiary. The reasons for coming to such a conclusion have not been discussed.

7.Admittedly, the petitioner has also not been heard and the contentions raised by him in this writ petition referred to supra have also not been considered by the respondent. The petitioner contends that the earlier registered will dated 30.11.2021 was cancelled on 12.12.2021 by the testatrix Chandraprabha. It is also the contention of the petitioner that thereafter the testatrix Chandraprabha has executed a will dated 12.12.2021 in his favour. Unless and until the petitioner is afforded a fair hearing, the truth will never come out.

8.As seen from the impugned order passed by the respondent, it is a non speaking order and the petitioner's contentions were never heard before passing such an order. Hence, the impugned refusal check slip dated 23.02.2022 passed by the respondent has to be necessarily quashed and the matter has to be remanded back to the respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioner as well as any other parties, whom the respondent deems fit to hear before passing any final orders.

9.Accordingly, the impugned refusal check slip dated 23.02.2022 issued by the respondent is hereby quashed and the matter is remanded back to the respondent for fresh consideration, after affording a fair hearing to the petitioner granting him right of



personal hearing. If the respondent deems fit to enquire any other person, in order to enable him to come to the right conclusion, he is at liberty to do so and the respondent shall pass final orders, within a period of eight (8) weeks from the date of receipt of a copy of this order.

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10. The Writ Petition is disposed of accordingly. There shall be no order as to costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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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 Sub Registrar,
Tirumangalam,
Madurai District.

+1 CC to M/s.SPL GP (SR-9180[F] dated 01/03/2022)

W.P. [MD]No.3643 of 2022

Dated:

28.02.2022

RK(16/03/2022) 3P 3C