



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2022

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. [MD]No.4383 of 2022

Pradeep

... Petitioner

Vs.

The Sub Registrar,
Registration Office,
Tirumangalam,
Madurai District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the impugned refusal check slip in Refusal No: RFL/THIRUMANGALAM/2/2022 dated 08.03.2022 issued by the respondent, quash the same as illegal and consequently directing the respondent to register the Settlement Deed presented by the petitioner on 08.03.2022 in respect of the property comprised in G.R.Survey No.161/36 of Sengulam Village, Thirumangalam Taluk, Madurai District to an extent of 1535.25 sq.ft including tiled house measuring 890 sq.ft.

For Petitioner : Mr.RM.Arun Swaminathan, Advocate

For Respondent : Mr.S.Shanmugavel

Additional Government Pleader

O R D E R

This writ petition has been filed challenging the impugned refusal check slip issued by the respondent on 08.03.2022 refusing to register the settlement deed dated 08.03.2022 presented by the petitioner for registration on the ground that the petitioner has not obtained probate of the registered Will which is the parent document for the said settlement deed.

2.The case of the petitioner is that by a registered Will dated 30.11.2021, Chandraprabha had executed the said Will under

<https://hcservices.ecourts.gov.in/hcservices/>



which the petitioner's father is the beneficiary. Thereafter, she cancelled the said Will dated 30.11.2021 and executed a fresh unregistered Will in favour of the petitioner on 12.12.2021. Based on the unregistered Will dated 12.12.2021, the petitioner has presented a settlement deed in favour of his father before the respondent on 08.03.2022 for registration. Under the impugned order dated 08.03.2022, the same has been refused to be registered on the ground that the earlier Will which is the parent document has not been probated. Aggrieved by the same, this Writ Petition has been filed.

3. Heard Mr.RM.Arun Swaminathan, learned Counsel for the writ petitioner and Mr.S.Shanmugavel, learned Additional Government Pleader who accepts notice on behalf of the respondent.

4. The petitioner has filed this writ petition on the ground of violation of principles of natural justice and also on the ground that by total non-application of mind to the settled law that there is no necessity to obtain probate for a property situated in Madurai, the respondent has passed the impugned order. As seen from the impugned order, no opportunity of hearing has been granted to the petitioner and by a non-speaking order, the settlement deed presented by the petitioner has been refused to be registered by the respondent, except for stating that the Will which is the parent document requires probate and the refusal order has been issued. The property is situated at Madurai and therefore, probate is not required as sought for by the respondent under the impugned order. The petitioner was also not heard before passing the impugned order.

5. For the foregoing reasons, this Court is of the considered view that principles of natural justice has been violated and by total non-application of mind to the provisions of Section 213 of the Indian Succession Act, 1925 and Section 18 of the Registration Act, 1908, the impugned order has been passed. Hence, the impugned order dated 08.03.2022 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 and in the light of Section 213 of the Indian Succession Act, 1925 and Section 18 of the Registration Act, 1908.

6. In the result, the impugned refusal check slip dated 08.03.2022 issued by the respondent is hereby quashed and the matter is remanded back to the respondent for fresh consideration on merits and in accordance with law after affording a fair hearing to the petitioner. The respondent shall pass final orders after giving due consideration to Section 213 of the Indian Succession Act, 1925 and Section 18 of the Registration Act, 1908



within a period of four [4] weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition stands disposed of. There shall be no order as to costs.

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Sd/-
Assistant Registrar

// True Copy //

/ /2022
Sub Assistant Registrar(CS)

MR

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,
Registration Office,
Tirumangalam,
Madurai District.

+1 CC to M/s.SPL GP (SR-11816[F] dated 14/03/2022)

ORDER MADE IN
W.P. [MD] No.4383 of 2022
11.03.2022

SP/23/03/2022/3P/3C