



W.P(MD)No.11707 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.07.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.11707 of 2022

Alagammal

... Petitioner

Vs.

1.The Sub Registrar,
Paramakudi,
Ramanathapuram District.

2.The District Registrar,
Ramanathapuram District,
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 refusal proceedings in RFL/Paramakudi/8/2022 dated 13.05.2022 on the file of the 1st respondent and quash the same and further direct the 1st respondent to receive the settlement deed dated 27.04.2022 executed by the petitioner in favour of her son R.Udhayakumar in respect of the property bearing S.No.599/2, Nenmeni Village, Paramakudi Taluk, Ramanathapuram District.



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For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.K.S.Selvaganesan,
Addl. Government Pleader.

ORDER

Heard the learned counsel on either side.

2.The petitioner executed a deed of settlement dated 27.04.2022 in favour of her son Udhayakumar. The first respondent declined to register the same and issued the impugned refusal check slip. Questioning the same, the writ petition came to be filed.

3.There is no dispute that the property originally belonged to one Raakammal. The said Raakammal is said to have executed a will dated 21.09.1995 in favour of the petitioner/Alagammal. Raakammal passed away in the year 2000 itself. On account of the said will, the property devolved on the petitioner. The stand of the petitioner is that the first respondent is declining to register the document only on the ground that the will in question is an unregistered will. The learned counsel for the petitioner would contend that a will does not require registration.



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4.I endorse the stand of the petitioner's counsel that a will does not require registration. But that is not the only issue here. The petitioner is also not able to produce her patta. The patta continues to stand only in the name of Raakammal. The petitioner/Alagammal is not the daughter of Raakammal. She was only her employee. The case of the petitioner is that considering her sincere and loyal service spread over several years, Raakammal executed the will in question in her favour bequeathing the property to her. The will is yet to be established in the manner known to law. Therefore, the first respondent cannot be faulted for having issued the impugned refusal check slip. The same stands sustained and the writ petition is dismissed. I however make it clear that it is open to the petitioner to move the jurisdictional Tahisldar and ask for mutation of patta in her name. If such an application is made and if the legal heirs of Raakammal give their consent, then the petitioner/Alagammal can be issued with patta. Based on the said patta, the document in question can be either represented or a fresh settlement deed can be submitted. In such event, the first respondent will not refuse registration on the ground that the will propounded by the petitioner is not registered. It will have to be registered subject to fulfilment of other formalities.



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G.R.SWAMINATHAN, J.

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5.The writ petition is disposed of accordingly. No costs.

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Index : Yes / No

Internet : Yes/ No

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To:

1.The Sub Registrar,
Paramakudi,
Ramanathapuram District.

2.The District Registrar,
Ramanathapuram District,
Ramanathapuram.

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