



W.P.(MD)No.13383 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 11.07.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.13383 of 2022

Sumathi

... Petitioner

Vs.

1.The District Registrar,
Ramanathapuram District,
Ramanathapuram.

2.The Sub Registrar,
Paramakudi,
Ramanathapuram District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned refusal proceedings in RFL/Paramakudi/9/2022, dated 14.06.2022 on the file of the second respondent and quash the same and further directing the 2nd respondent to receive the settlement deed dated 13.06.2022 executed by the petitioner in favour of her husband J.R.Dinakaran and sons J.D.Ajith Kumar and J.D.Giridharan in respect of the property situated in T.S.No.62,63, Ward C, Block 16 and bearing Door No.2/152, Paramakudi Taluk, Ramanathapuram Distirct.



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For Petitioner : Mr.G.Prabhu Rajadurai

For R1 & R2 : Mr.J.K.Jayaseelan
Government Advocate

ORDER

Heard the learned counsel on either side.

2. The property in question was purchased way back in the year 1946 by the grandfather of the writ petitioner namely Srinivasa Iyer and his brother Ramachari. Their vendor had in turn purchased the property on 27.02.1936. Both these documents were registered. Srinivasa Iyer and his wife Soundaravalli Ammal had a daughter by name Vasantha / mother of the petitioner herein. After Srinivasa Iyer and Vasantha passed away, the half share interest in the property devolved on Soundaravalli Ammal W/o.Srinivasa Iyer. The other half share was with Ramachari as already seen. Ramachari and Soundaravalli Ammal jointly executed a Will dated 16.12.2002 in favour of the writ petitioner. Ramachari passed away on 08.11.2011. A copy of the death certificate has been enclosed at Page No.47 of the typed set of papers. Soundaravalli Ammal passed



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away on 23.01.2006. A copy of her death certificate is also enclosed at Page No.46 of the typed set of papers. Since the testatrix as well as the testator passed away, the Will has come into effect. As on date, Sumathi / writ petitioner is the absolute owner of the property in question. Sumathi / writ petitioner wanted to settle the property in favour of her husband Dinakaran and sons Ajith Kumar and Giridharan. When the document was presented for registration, the second respondent declined to register the same and issued the impugned refusal check slip. The same is questioned in this writ petition.

3. The respondent has assigned three reasons for refusing to register the document. The first reason is that the Will dated 16.12.2002 is an un-registered document. It is well settled that a Will does not require to be registered. Therefore, the first reason set out in the impugned order cannot be accepted. The second reason is that tracing of title from Srinivasa Iyer to Soundaravalli Ammal is not clear. This is again incorrect. In the Will dated 16.12.2002, it has been mentioned that Srinivasa Iyer and Soundaravalli Ammal had a daughter by name Vasantha and that she is also no more and that is how, half share in the



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property came to vest with Soundaravalli Ammal / one of the testatrix of the Will. The second reason is also incorrect. The third reason is that the property continues to be assessed only in the name of Srinivasa Iyer. The omission on the part of the local body to revise the property tax assessment register cannot be a ground. What clinches the issue in favour of the writ petitioner is that she is ready to produce the parent deed in original ie., sale deed dated 15.06.1946 standing in the names of Srinivasa Iyer and his brother Ramachari. It has been held time and again that the registrar cannot insist on production of the parent title document. In this case, the parent title document can be produced in original. Merely because the link document has not been registered, the second respondent could not have refused to register the document. In any event, the link document does not require registration.

4. Looked at from any angle, none of the reasons set out in the impugned refusal check slip are sustainable. The impugned refusal check slip is quashed. The petitioner is directed to re-present the settlement deed before the second respondent and the second respondent is directed to register the same subject to fulfilment of the usual formalities.



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5. The Writ Petition is allowed. No costs.

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Index : Yes / No
Internet : Yes/ No
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To

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2.The Sub Registrar,
Paramakudi,
Ramanathapuram District.



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G.R.SWAMINATHAN,J.

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