



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2022

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THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD) .No.19821 of 2021

and

W.M.P. (MD) .No.16515 of 2021

S.Selvam

... Petitioner

Vs.

The Sub-Registrar,
Office of the Sub-Registrar,
Paramakudi,
Ramanathapuram District.

... Respondent

Prayer : Writ Petition 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 order of Refusal Check Slip passed by the respondent in Refusal Number:RFL/Paramakudi/8/2021 dated 04.10.2021 and quash the same as illegal, consequently direct the respondent to register the settlement deed dated 09.08.2021 presented by the petitioner in favour of his son Karthik Vinayagam in accordance with law and within the time frame as may be fixed by this Court.

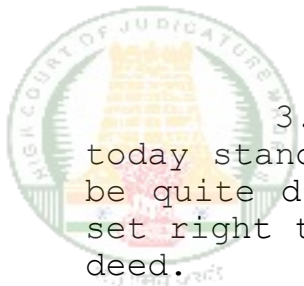
For Petitioner : Mr.K.Sathish Kumar

For Respondent : Mr.N.Satheesh Kumar,
Additional Government Pleader.

ORDER

The Writ Petition has been filed in the nature of Certiorarified Mandamus seeking interference with a refusal check slip issued by the respondent / the Sub-Registrar, Office of the Sub-Registrar, Paramakudi, Ramanathapuram District, dated 04.10.2021.

2. The petitioner was the beneficiary of a property being bequeathed by an unregistered will executed by his grandmother dated 09.07.1990. The petitioner, thereafter, dealt with the property. He executed a settlement deed on 09.08.2021 and presented the same for registration. The settlement deed is in favour of the son of the petitioner. The said settlement deed was refused to be registered by the respondent and a refusal check slip was issued stating that the revenue records should also reflect the name of the petitioner and in absence thereof, registration would be denied.



3. Learned counsel for the petitioner stated that the patta today stands in the name of the grandfather and therefore, it would be quite difficult for him to go around the revenue authorities to set right the revenue records and go back to register the settlement deed.

4. However, the settlement deed is only between the petitioner and his son. It will only be appropriate that before he settles the property in favour of his son, he also ensures that the title deeds and the revenue records are in order. Only then, he can grant proper title. It is a duty cast on the petitioner to ensure that the revenue records are perfect and then presented the document for registration.

5. Therefore, a direction is given to the petitioner herein to first take steps to get the patta and thereafter, go back to present the document for registration. The view stated by me was in fact an input given by Mr.N.Satheesh Kumar, learned Additional Government Pleader, who pointed out the provisions under Section 5 of the Patta Passbook Act, which stipulates that a document can be refused for registration if the revenue records are not in the name of the person who presents the document for registration. It is also pointed out by the learned Additional Government Pleader that the said view was also taken by a learned Single Judge of this Court when a similar relief was sought in a Writ Petition filed earlier.

6. With the above observations, though the Writ Petition, as on date, is dismissed, permission is granted to the petitioner, to, once he sets right the revenue records, present the document for registration before the respondent / the Sub Registrar and if, at that particular point of time, the revenue records are in order, a direction is issued to the Sub-Registrar, Paramakudi, Ramanathapuram District to register the document if it is otherwise in order. The Sub-Registrar need not take up the issue of genuineness of the Will, since a Will need not be strictly required to be registered and an unregistered Will can also be acted upon. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Lm

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



To

The Sub-Registrar,
Office of the Sub-Registrar,
Paramakudi,
Ramanathapuram District.

+1 CC to M/s.SPL.GP (SR-593[F] dated 06/01/2022)

W.P. (MD) .No.19821 of 2021
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MGJ(20.01.2022) 3P 3C