



W.P.(MD)No.25537 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 10.11.2022

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THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

W.P. (MD) No.25537 of 2022

T.Radha Krishnan

... Petitioner

Vs.

1.The Sub Registrar,
Velipattinam Sub Registrar Office,
Ramanathapuram Taluk and District.

2.The District Registrar,
Ramanathapuram District.

... Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the impugned refusal check slip in No.Nil-2022, dated 21.10.2022 on the file of the first respondent and quash the same further directing the first respondent to receive and register the settlement deed dated 12.08.2022 executed by the petitioner's father in favour of the petitioner.

For Petitioner : Mr.S.Selva Aditya

For Respondents : Mr.S.Jayapriya
Government Advocate



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ORDER

This Writ Petition has been filed seeking for issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned refusal check slip in No.Nil-2022, dated 21.10.2022 on the file of the first respondent and quash the same, further directing the first respondent to receive and register the settlement deed, dated 12.08.2022 executed by the petitioner's father in favour of the petitioner.

2.The property in S.No.236/2 (New No.375/5) and 239/3 situated at Eratti Oorani Village, Ramanathapuram Taluk and District originally belonged to the grandfather and grandmother of the petitioner's father, respectively. The father of the petitioner was bequeathed the said properties by his parents through a Will dated 02.05.1980. During his life time, the father of the petitioner had executed a settlement deed in favour of the petitioner on 12.08.2022. The petitioner submitted the same before the first respondent for registration. The first respondent returned the same stating that an unregistered Will could not be registered. Hence, the petitioner has filed the present writ petition.



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3.The learned counsel for the petitioner submitted that the first respondent has no jurisdiction to refuse to register the settlement deed executed by a father to his son. He further submitted that the Will does not require compulsory registration and there is no restriction for registering the document based on unregistered Will. The reasons stated by the respondents for returning the documents placed for registration suffer from non-application of mind. Hence, the petitioner prays for allowing this Writ Petition.

4.The learned Government Advocate appearing for appearing for the respondents submitted that as per the circular No.18339/e1/2012, dated 25.04.2012, the right of transferring a property has to be considered by verifying the parent deed regarding the document sought to be transferred or registered. The petitioner submitted the documents for registration only based on an unregistered Will of the grandparents of the petitioner and the petitioner has not obtained probate of the said Will. The patta for the said land still stands in the name of the grandparents of the petitioner. He has not submitted any proof regarding his ownership or legal heirship and parent document of the said property and that is the reason for refusal to register the settlement deed presented by the petitioner for registration.

5.Heard the learned counsel appearing on either side.



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6. It is made clear that Section 18 of the Registration Act provides that Will need not be registered. But it is open to the parties to get the same registered under the Provisions of the Act, if they so choose, at their option. For registering a document, certain conditions have to be fulfilled and certain formalities have to be observed. The applicant, who is presenting the document for registration, has to comply with the requirements of the law in force, so as to enable the document to be registered.

7. Therefore, this Court is of the considered view that principles of natural justice have been violated. Hence, the impugned refusal check slip will have to be necessarily quashed and the matter has to be remanded back to the respondent for fresh consideration, after affording a fair hearing to the petitioners and any other necessary party, whom the respondent deems fit to enquire.

8. For the foregoing reasons, the impugned refusal check slip dated 21.10.2022 is hereby quashed and the matter is remanded back to the first respondent for fresh consideration. The first respondent is directed to pass final orders on merits and in accordance with law, after affording a fair hearing to the petitioner and any other necessary party, whom the respondent deems fit to enquire, including granting them the right of personal hearing, within a



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period of sixteen (16) weeks from the date of receipt of a copy of this order.

The petitioner is permitted to produce all the relevant documents before the respondent to substantiate his case.

9. With the above direction, the Writ Petition stands disposed of. No costs.

10.11.2022

Index : Yes/No
Internet : Yes/No
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V.BHAVANI SUBBAROYAN, J.

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To

- 1.The Sub Registrar,
Velipattinam Sub Registrar Office,
Ramanathapuram Taluk and District.
- 2.The District Registrar,
Ramanathapuram District.

Order made in
W.P.(MD) No.25537 of 2022

10.11.2022