



WEB COPY



WP.No.3483 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2023

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUIMAR

WP.No.3483 of 2023

K.M.Roopak

.. Petitioner

Versus

1.The District Registrar
The District Registrar Office
Collectorate Campus Back Side
Nallipalayam, Namakkal

2.The Sub-Registrar
Mallasamuthiram Sub Registrar Office
No.5-2/8, Kilaku Radha Street
Mallasamuthiram, Tiruchengode Taluk
Namakkal District.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 2nd respondent to accept the Gift Settlement Deed dated 25.01.2023 for registration thereby considering the petitioner's application for Pre-Registration Token Receipt No.TP/142060246/2023 dated 25.01.2023 on the file of the SRO, Mallasamudram, Namakkal District.

For Petitioner : Mr.N.Vijaya Basker
For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

This writ petition is filed seeking for the issuance of Writ of Mandamus

to direct the 2nd respondent to accept the Gift Settlement Deed dated



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25.01.2023 for registration thereby considering the petitioner's application for

Pre-Registration Token Receipt No.TP/142060246/2023 dated 25.01.2023 on the file of the SRO, Mallasamudram, Namakkal District.

2. It is the case of the petitioner that originally the property in Survey Nos.78/10A, 78/10B, 78/10C, 78/12/79/2B, 108/5, 108/6, 78/4, 78/5, 78/6 and 78/9 situated at Senbagamadevi Village, Mallasamudram, Namakkal District totalling to an extent of 2.76 acres, belonged to the grandfather of the petitioner. He had bequeathed the property by an unregistered will dated 20.06.2021 and his grandfather namely Mr.Kandasamy died on 01.10.2022. After, the death of grandfather, the petitioner become absolute owner. Now, the petitioner has executed a Gift Settlement Deed dated 25.01.2023 in favour of his mother namely Mrs.M.Vimala. When the said document was presented for registration, the registering authority/second respondent refused to register the same. Hence, this writ petition.

3. Mr.Yogesh Kannadasan, learned Special Government Pleader takes notice for the respondents. According to him, on instructions of the Sub-Registrar for refusal of the registration is on the ground that the Sub-Registrar/second respondent has to verify the records whether the will relied



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upon by the petitioner is the last will of the testator.

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4. Heard both sides and perused the materials placed on record. This Court at loss to understand how such enquiry is contemplated by the Sub-Registrar. When the will has been presented by the petitioner to prove his title, the Sub-Registrar is duty bound to register the gift document. If at all any legal heirs challenges the will, it is for them to challenge the will in the manner known to law.

5. Such view of the matter, this Court directs the second respondent/Sub-Registrar to entertain the document presented by the petitioner, if it is otherwise in order after receiving the requisite statutory fees and stamps.

6. Accordingly, this writ petition stands allowed. No costs.

08.02.2023

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Index: Yes/No
Internet: Yes/No



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N.SATHISH KUMAR, J.

dhk

To

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