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W.P.No.9600 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.02.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.9600 of 2021

Mr.A.K.Ravi

... Petitioner

-Vs-

1. The District Registrar (Admin)(AIG).
Vellore – 632 001.

2. N.K.Jayaprakash

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the order passed by the 1st respondent dated 19.03.2021 vide proceedings in Se.Mu.No.1614/E1/21 and quash the same as illegal and consequently direct the 1st respondent to accept the reconstitution of the partnership firm “Everest Shoe Fabrics” and register the same on the file of the 1st respondent.

For Petitioner : Mr.C.Prabakaran

For Respondents : Mr.P.Sathish
Additional Government Pleader
[R1]

Mr.K.Anandha Raja for
M/s.Murali Law Firm

ORDER



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The prayer sought for herein is for a writ of Certiorarified mandamus to quash the impugned order passed by the first respondent 19.03.2021 vide proceedings in Se.Mu.No.1614/E1/21 and consequently direct the 1st respondent to accept the reconstitution of the partnership firm “Everest Shoe Fabrics” and register the same on the file of the 1st respondent.

2. There was a partnership firm under the partnership deed dated 21.01.2022 at Vellore between the three persons viz., N.Krishnan, A.K.Ravi and R.Pramila. The said A.K.Ravi is the petitioner herein, N.Krishnan is the father of R.Pramila and A.K.Ravi is the husband of R.Pramila, therefore, it is a family concern.

3. After some years of running the partnership firm that N.Krishnan wanted to execute a release deed to and in favour of A.K.Ravi and R.Pramila, who is none other than the son-in-law and daughter of N.Krishnan and accordingly, a release deed was executed by the said N.Krishnan on 20.05.2020, however, the same has not been registered. Subsequently, N.Krishnan also died, therefore it become



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necessary to reconstitute the firm with the surviving partners viz., petitioner A.K.Ravi and his wife another partner viz., R.Pramila. When this reconstitution deed was presented to the first respondent for registration, the same was rejected through the impugned order stating that the second respondent, who is none other than the son of N.Krishnan and the brother of R.Pramila and brother-in-law of the petitioner A.K.Ravi had given an objection that the reconstitution deed shall not be registered because the release deed said to have been made by his father was a forged one as the signature of the said N.Krishnan was forged by the petitioner and his wife and also some other dispute with regard to the payment of share of the income of the partnership firm and without settling all these aspects the reconstitution deed shall not be allowed to be registered that seems to be the objection given by the second respondent and based on which, the first respondent passed the impugned order refusing to register the reconstituted deed of the firm, as against which, the present writ petition has been filed.

4. Heard Mr.C.Prabakaran, learned counsel appearing for the



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petitioner, who would submit that, the said N.Krishnan, A.K.Ravi and R.Pramila, who all are one family members and their relationship has already been mentioned and the said N.Krishnan due to age wanted to release from the partnership firm, therefore, he has executed a release deed dated 20.05.2020 of-course the same has not been registered, but it is a important fact according to the learned counsel appearing for the petitioner that in the said release deed, the second respondent stood as one of the witnesses and he has signed and therefore, if at all he raises any dispute over the execution of the release deed, he should be in a position to explain as to how he stood as witness in the said deed and without seeing this aspect in a proper perspective, since the first respondent has mistakenly passed the rejection order, which is impugned herein the same cannot be sustained under the legal scrutiny. Hence, the learned counsel appearing for the petitioner seeks indulgence of this Court.

5. However Mr.P..Sathish, learned Additional Government Pleader appearing for the first respondent has relied upon the following averments made in the counter affidavit:



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“5. With regard to Paras 9 to 14 of the affidavit , it is submitted that Form V notice intimating the change in constitution of firm viz., death of one of the partner N.Krishnan, was forwarded for filing on 25.02.2021 through online. When the same was under consideration, a complaint was received on 25.02.2021 from the 2nd respondent protesting the filing of any changes in the constitution of the firm alleging that the profit share to the tune of Rs.3,00,00,000/- and land share to the tune of Rs.4,50,00,000/- due to the deceased partner N.Krishnan has not been paid to his legal heirs.

6. With regard to Paras 15 to 17 of the affidavit, it is submitted that the 2nd respondent and the petitioner were heard. The 2nd respondent has alleged that his father's signature has been forged in the Release Deed dated 20.05.2020. The petitioner has stated that the 2nd respondent is a witness to the Release Deed executed by his father. After hearing both the sides, this respondent has passed the impugned proceedings refusing to file the Form V intimation notifying change in constitution of firm filed by the petitioner.”

6. Relying upon these averments, learned Additional Government Pleader would submit that, on 25.02.2021 the firm forwarded to change of constitution for registration, however on the same date, a complaint



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has been received from the second respondent, where he made a protest saying that the profit share to the tune of Rs.3,00,00,000/- and a land share to the tune of Rs.4,50,00,000/- due to the deceased partner N.Krishnan, who is none other than the father of the second respondent has not been paid to the legal heirs and also the said release deed said to have been executed by said N.Krishnan was a forged one.

7. In view of the said objection having been made by the second respondent, the first respondent refused to register the document, therefore, the learned Additional Government Pleader wants to sustain the impugned order.

8. In the same line, Mr.K.Anandha Raja, learned counsel appearing for the second respondent also made submissions stating that the document viz., release deed said to have been executed by the second respondent's father was a forged one as the signature of his father has been forged by the petitioner and his wife and moreover, some profit share also is due from them and without settling the same the reconstitution cannot be directed to be registered. Therefore, that protest



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has been made to the first respondent i.e, District Registrar, who having accepted the same in a proper perspective has passed the impugned order.

Hence, he also wants to sustain the impugned order.

9. I have considered the rival submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

10. It is to be noted that, originally the three partners are very close family members as the said N.Krishnan was the father-in-law of A.K.Ravi i.e., petitioner, R.Pramila was the daughter of the said N.Krishnan and wife of A.K.Ravi and the second respondent is none other than the son of N.Krishnan. At the time of execution of the release deed dated 20.05.2020, it is pertinent to be noted that the second respondent stood as one of the witnesses and it seems that his signature being made in the said release deed as a witness has not been disputed

11. When that being so, on what basis, the release deed dated



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20.05.2020 was to be considered as a forged one as per statement now made by the second respondent is a question.

12. When this aspect has been subsequently made by the petitioner before the first respondent, the same has not been considered in a proper perspective as the averments made in the counter affidavit especially at paragraph 6 of the counter affidavit referred to above does not say anything about the decision taken in this regard by the first respondent about the said contention raised by the petitioner's side as to the genuineness of the signature made by the second respondent as a witness in the release deed dated 20.05.2020. Therefore, this Court feels that the impugned order since has been passed by the first respondent without considering this crucial aspect, even though it has been raised by the petitioner's side, it would not stand in the legal scrutiny, hence, it requires reconsideration.

13. In view of the aforesaid, this Court is inclined to dispose of this writ petition with the following orders:

- ◆ That the impugned order is set aside and the matter is remitted back to the first respondent for reconsideration.



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- ◆ While reconsidering the same, notice to be given to both the petitioner as well as the second respondent and after having the preliminary enquiry with them, as to the genuineness of the release deed dated 20.05.2020 including the signature of the said N.Krishnan as well as the signature of the second respondent, who stood as witness in the said deed, the first respondent shall come to a reasonable conclusion and accordingly, he shall act upon with regard to the registration of reconstitution deed or otherwise and that shall be decided by the first respondent as indicated above within a period of twelve (12) weeks from the date of receipt of a copy of this order.

With this direction, this writ petition is disposed of. No costs.

06.02.2023

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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R. SURESH KUMAR, J.

mp

To

1. The District Registrar (Admin)(AIG).
Vellore – 632 001.

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