



W.P.No.29583 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.29583 of 2023

Govindan

... Petitioner

versus

The Sub Registrar,
Kaveripattinam,
Krishnagiri - 635 112.

... Respondent

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the entire records of the impugned order of refusal of registration in RFL/Kaveripattinam/84/2023 dated 29.08.2023 refusing to register the Will dated 02.11.2021 passed by the respondent - Sub Registrar, Kaveripattinam, Krishnagiri District and quash the same and consequently direct the respondent to register the Will dated 02.11.2021 presented by the petitioner within a stipulated time period.

For Petitioner : Mr.C.Umashankar

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

Pg.Nos.1/6



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ORDER

The writ petition has been filed to quash the impugned order of refusal of registration of the Will dated 02.11.2021 in RFL/ Kaveripattinam /84/2023 dated 29.08.2023 and consequently direct the respondent to register the Will presented by the petitioner within a stipulated time period.

2. According to the petitioner, his mother Govindammal is the absolute owner of the properties in Survey Nos.558/3, 558/7 and 559/1, measuring an extent of 11.0, 4.5 and 8 acres and in Survey Nos.138/1, 139/2 and 139/6, measuring an extent of 12.5, 1.0 and 9.5 acres, respectively. The said Govindammal executed a Will and bequeathed the said properties in favour of the petitioner. The said Govindammal died on 23.6.2022. Subsequently, when the petitioner presented the Will dated 02.11.2021 along with relevant documents, including Patta before the respondent for registration dated 28.08.2023, the respondent refused to register the same on the ground that the Will, which was presented to be registered is an unregistered document and hence, after getting concerned



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Court's approval only, it can be registered. Challenging the said refusal order, the petitioner is before this Court by way of writ petition.

3. From the records, it is seen that the testator died on 23.6.2022 and the Will was presented on 29.08.2023. Since the Will was not presented immediately soon after the death of the testator, the same was presented after one year i.e. on 29.08.2023. Therefore, the Registrar has made an observation that since the Will, which is presented for registration is an unregistered document it has to be presented after getting appropriate orders from the Court regarding the genuineness of the Will.

4. The learned counsel for the petitioner pointed out Section 41 of the Registration Act, 1908 which prescribes only discretionary power of the Registrar. After the death of the testator, the Registrar has no other option but to register the same. In the present case, the Will was presented only after one year, and therefore, there is no perversity in the reason for refusal given by the Registrar.

5. This Court insisted the petitioner to submit a Legalheirship



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Certificate, however, the learned counsel submitted that there is no necessity to produce the Legalheirship Certificate. Section 42 of the Registration Act did not contemplate production of Legalheirship Certificate, and therefore he has not produced the legalheirship certificate. Since the Will was presented after one year from the date of death of the testator, the refusal order passed by the Registrar is in order.

6. Considering the facts and circumstances, this Court does not find any reason to interfere with impugned refusal order passed by the respondent and there is no reason to take a different view from that of the respondent.

7. Accordingly, this Writ Petition is dismissed. However, the petitioner is at liberty to work out his remedy in the manner known to law. There shall be no order as to costs.

12.10.2023

Speaking/Non-speaking order
Index : Yes/No
Neutral Citation : Yes/No
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To

The Sub Registrar,
Kaveripattinam,
Krishnagiri - 635 112.

Pg.Nos.5/6



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P.VELMURUGAN, J.

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