



W.P(MD)No.749 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.02.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.749 of 2023

Periyadurai

... Petitioner

Vs.

1.The District Registrar (Admin),
Registration Office,
Tirunelveli District,
Tirunelveli.

2.The Joint Sub Registrar No.II,
Thirunagar, Tirunelveli Town,
Tirunelveli – 627 001.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned refusal check slip RFL/2 Tirunelveli/89/2022 in so far as denial of registration of partition deed dated 26.12.2022 on the file of the 2nd Respondent and quash the same as illegal and consequently directing the 2nd Respondent to register and return the partition deed dated 26.12.2022 executed by the Petitioner.



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For Petitioner : Mr.C.Susikumar

For Respondents : Mr.S.Shanmugavel,
Addl. Government Pleader.

ORDER

Heard the learned counsel on either side.

2.The petitioner's parents namely, Pandi and Subbulakshmi are no more. The petitioner has a brother by name Chinnadurai and three sisters. The petitioner's father purchased the petition mentioned properties. He executed a Will dated 10.05.1993. The petitioner's father passed away on 11.10.2019. Based on the said Will executed by the father, the children entered into a partition deed among themselves on 26.10.2022. It was presented for registration. The second respondent declined to entertain the document and issued the impugned refusal check slip on the ground that the partition deed is based on an unregistered Will and that therefore the partition deed cannot be registered. Challenging the said refusal check slip, the present writ petition has been filed.

3.After hearing the learned counsel on either side, I am satisfied that the impugned refusal check slip has to be necessarily set aside. A Will does not



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require registration. However, the genuineness of the Will can be tentatively gone into. While the petitioner need not prove the same before the second respondent as it is done in Court of law, the second respondent will be justified in calling upon the petitioner to obtain consent letters from the other legal heirs.

4.This approach was adopted by a learned Judge of this Court in W.P.(MD)No.21289 of 2021 dated 30.11.2021. Adopting the same approach, I call upon the petitioner to give the address details of his siblings (brother and sisters) while re-presenting the document. The registering authority/second respondent shall issue notice to the petitioner's siblings. If no objection is received, the second respondent is bound to register the partition deed subject to fulfilment of other usual formalities.

5.The writ petition is allowed on these terms. No costs.

02.02.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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To:

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