



W.P(MD)No.3186 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:13.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD).No.3186 of 2023

K.B.Nareshbabu

... Petitioner

Vs

1. The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600028.

2. The Sub-Registrar,
Krishnarayapuram Sub-Registrar Office,
Krishnarayapuram, Karur District.

... Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd Respondent in RFL/Krishnarayapuram/5/2023, dated 03.02.2023 and quash the same as illegal and consequently direct the second respondent herein to register and release the Settlement deed, dated 01.02.2023 forthwith executed by the petitioner.

For Petitioner

:Mr.S.J.Muthiah

For Respondents

:Mr.M.Prakash

Additional Government Pleader



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ORDER

The writ petition has been filed in the nature of Certiorarified Mandamus, seeking interference with an order of the second respondent/Sub-Registrar, Krishnarayapuram, Karur District in RFL/Krishnarayapuram/5/2023, dated 03.02.2023 and direct the said respondent to register and release the settlement deed, dated 01.02.2023, presented by the petitioner.

2.In the affidavit filed in support of the writ petition, the petitioner had stated that he had purchased the properties at S.No.253/3, measuring 1.95 acres at Manavaasi Village, Krishnarayapuram Taluk, Karur District from D.Gopinath along with K.P.S.Khader Moidheen and D.Ramesh by a sale deed, dated 12.02.2016, registered as Doc.No.307/2016 in the office of Sub Registrar at Krishnarayapuram. Thereafter, he had sold his undivided 1/3 share in the aforementioned property, measuring about 0.65 cents to his mother B.Lalitha by a sale deed, dated 02.05.2016. This document was registered as Doc.No.866/2016 again before the very same Registrar Office. Thereafter, the mother and the other two co-owners K.P.S.Khader Moidheen and D.Ramesh had developed the property and formed a layout. The mother had executed an unregistered Will on 22.09.2019, bequeathing her share to

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the petitioner herein. Unfortunately, his mother died on 22.09.2019. Then the petitioner had executed a settlement deed in favour of his wife on 01.02.2023 and presented the same for registration, before the second respondent on 03.02.2023. The same was refused to be registered by the second respondent, since his mother had registered an unregistered Will and subsequent to the Will, patta was not mutated in the name of the petitioner herein.

3. With respect to the first ground that the mother had executed only an unregistered Will. The second respondent should realise the fact there is no compulsion that a Will should be registered. When it is tested in a Court of law, it should be proved by two attesting witnesses, as per Section 68 of Indian Evidence Act. Merely because it is unregistered, it cannot be rejected.

4. At the most, the second respondent may issue notice to the sister of the petitioner, examine about the Will and whether there is any claim by his sister as against the Will.



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5. In so far as the second ground is concerned, mutation of patta, there are instances where there are no mutations of patta. In some cases, immediately after the death, patta will be mutated. In some other cases, it will be done at a later point of time. This does not mean that the petitioner cannot present the document for registration only because the patta is not mutated in his name.

6. A direction is given to the petitioner to represent the settlement deed, after due process through online. When it is presented, if the second respondent is of the opinion that some enquiry is to be done, then he/she can make that enquiry or examination and clarify doubts and then proceed to register, if adequate stamps and necessary charges have been paid, if it is otherwise in proper and lawful. The said exercise should be completed within a period of two weeks, from the date of presentation before the second respondent.

7. With the above direction, this Writ Petition is stands disposed.

No costs.



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NCS : Yes/No
Index : Yes/No
Internet: Yes/No

PNM

To

1. The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600028.
2. The Sub-Registrar,
Krishnarayapuram Sub-Registrar Office,
Krishnarayapuram, Karur District.



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C.V.KARTHIKEYAN,J.

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