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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 16.03.2023**

CORAM:

**THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN**

**W.P(MD)No.5760 of 2023**

T.A.Rajasekar ... Petitioner

Vs.

The Sub Registrar
K.Sathanur Sub Registrar Office,
Trichy Taluk,
Trichy District. ... Respondent

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned check slip in Refusal No.RFL/ KEELASATHANUR/65/2022 by the respondent dated 09.11.2022 and quash the same as illegal and ultravires and consequently direct the respondent to register and release the settlement deed, dated 09.11.2022 presented by the petitioner.



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For Petitioner : Mr.M.S.Vinodh

For Respondent : Mr.M.Prakash
Additional Government Pleader

**O R D E R**

The writ petition has been filed in the nature of a Certiorarified Mandamus seeking interference with the check slip in refusal No.RFL/KEELASATHANUR/65/2022 issued by the respondent/ Sub Registrar, K.Sathanur Sub Registrar Office at Trichy, dated 09.11.2022.

2. In the affidavit filed in support of the writ petition, it had been stated that the lands in Ayan Punjai Survey No.17/4 measuring 2400 sq.ft. originally belonged to one Appana Rao, the father of the petitioner herein. His father had purchased the same by sale deed, dated 20.07.1960 registered as Document No.4402 in the office of the Sub Registrar at Trichy. Thereafter, the father, Appana Rao, had executed an unregistered 'Will' on 10.11.2001 bequeathing the property in favour of the petitioner herein. The father died on 24.01.2013. The 'Will' came


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into effect. The petitioner now became the owner of the property. He acquired title consequent to the 'Will'. It is also stated that the revenue records has also been mutated in the name of the petitioner herein. Since the petitioner is the owner of the property, he had executed a settlement deed in favour of the his own wife Jansi Rajasekar on 09.11.2022 and presented the same before the respondent for registration. The respondent had issued a check slip stating that the 'Will' was an unregistered 'Will' and thereafter, the certificate from Court will have to be obtained about the probate of the ‘Will’.

3. That order has to be interfered with by this Court, since a 'Will' need not be registered. Section 57 of the Indian Succession Act, 1925, also gives exceptions for grant of probate of a 'Will' for properties which are situated outside the city limits of Chennai. The ‘Will’ need not be registered. A ‘Will’ can be written down. All that requires is attestation under Section 68 of the Indian Evidence Act. Even if registered, it does not mean that the ‘Will’ had been proved in the manner known to law. The ‘Will’ has been executed in this instant in the year 2001 and had come into effect on the date of the death of the father.


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The Sub Registrar therefore, cannot raise question about the registration of the 'Will' or seek probate of the 'Will'. The said reasons are set aside.

4. A direction is given to the petitioner to again re-submit the Settlement Deed in normal process through online after following due procedure and within 10 working days from such re-presentation, the respondent may register the Settlement Deed, if it is otherwise in order. The documents relating to the death certificate of the father of the petitioner, Appana Rao may also be produced along with the settlement deed, if it had not been produced so far.

5. With the above direction, the writ petition stands allowed. No costs.

**16.03.2023**

Index :Yes/No
Internet :Yes/No
NCC : Yes / No

RM



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To

The Sub Registrar
K.Sathanur Sub Registrar Office,
Trichy Taluk,
Trichy District.



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**C.V.KARTHIKEYAN, J.**

RM

**W.P(MD)No.5760 of 2023**

16.03.2023


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