



WP (MD) No.15100 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP (MD) No.15100 of 2023

P.Subbulakshmi

... Petitioner

Vs

The Sub Registrar,
Madurai South,
Madurai District.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus calling for the records relating to the impugned referral check slip issued by the respondent in refusal number ; FRL/4 number Joint Sub Registrar, Madura South/05/2023, dated 12.06.2023 and quash the same as illegal, arbitrary and in violation of the provisions of the Registration Act, 1908 and consequently directing the respondent to register the settlement deed dated 12.06.2023 executed by the petitioner in favour of the petitioner's grandson viz., K.Suthir on re-presentation, if otherwise in order within stipulated time fixed by this Court.

For petitioner : Mr.C.Nihil Nandha

For Respondent : Mr.D.Farjana Ghoushia

Special Government Pleader



WP (MD) No.15100 of 2023

WEB COPY

ORDER

As against the refusal check slip of the Joint Sub Registrar, Madurai South, refusing to register the document this writ petition is filed.

2.The respondent has refused to register the document on the following grounds:

(i)the Will dated 05.12.2022 executed in favour of the petitioner, was not probated through the competent Court.

(ii)the patta for the lands in Survey No.507/4, stands in the name of one Pitchai in patta No.3133, which has not been transferred in the name of the petitioner.

3.The learned Counsel for the petitioner by referring the provisions under Section 57 of the Indian Succession Act submits that the Will need not be probated and even an unregistered Will confers right on the petitioner.



WP (MD) No.15100 of 2023

4.This Court is inclined to consider the case of the petitioner with regard to the first objection raised by the respondent that the Will was not registered and therefore, need not be probated and therefore, this writ petition is allowed and the impugned check slip is set aside. In respect of the second objection, the petitioner shall change the patta in favour of the petitioner and thereafter submit the document for registration. No costs.

04.07.2023

dsk

To

The Sub Registrar,
Madurai South,
Madurai District.



WEB COPY



WP (MD) No.15100 of 2023

B.PUGALENDHI, J.

dsk

WP (MD) No.15100 of 2023

04.07.2023