



WP(MD)No.22561 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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A.M.Abdul Malik

... Petitioner

v.

1.The Joint 1 Sub Registrar,
Ramanathapuram District,
Ramanathapuram.

2.The District Registrar,
District Registrar Office,
Ramanathapuram.

3.Mohammed Barakathulla

4.Maheshwaran

... Respondents

[R.4 impleaded vide order dated 17.04.2023]

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned refusal order in Na.Ka.No.1954/A.ba.bi/2022 dated



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01.08.2022 on the file of the first respondent, quash the same and consequently directing the first respondent to register the settlement deed dated 06.04.2022 executed by the petitioner.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mrs.D.Farjana Ghoushia,
Special Government Pleader
for R.1, R.2

Mr.J.Bharathan
for R.3, R.4

ORDER

This writ petition is filed by the petitioner as against the orders of the Joint Sub Registrar dated 01.08.2022 refusing to register the document.

2.The petitioner has earlier submitted a settlement deed dated 06.04.2022 for registration and the same was refused by the Joint Sub Registrar, by refusal check slip dated 07.04.2022. Challenging the same, the petitioner has filed a writ petition in WP(MD)No.7860 of 2022 and this Court, by order dated 25.04.2022, set aside the refusal check slip dated 07.04.2022 and directed the Joint Sub Registrar to conduct an enquiry with



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regard to the Will referred by the petitioner. Accordingly, the Joint Sub Registrar has conducted an enquiry and has passed an order dated 01.08.2022, which is impugned in this writ petition.

3.Learned Counsel for the petitioner submitted that the petitioner's paternal uncle, (late) Jagubar Sadique Ali has executed a Hiba in favour of this petitioner on 18.07.2011. Based on the Hiba, the petitioner has presented the document for registration, but the same was not accepted by the Joint Sub Registrar. The Joint Sub Registrar is not a quasi judicial authority and he is not entitled to conduct any enquiry with regard to the genuineness of the document.

4.Learned Special Government Pleader for the respondents 1 & 2, by referring to the provisions u/s.72 of the Registration Act, submitted that as against the order of refusal passed by the Sub Registrar, the petitioner is having a statutory appeal remedy before the District Registrar. The petitioner has also filed the appeal before the District Registrar, Ramanathapuram and the same is pending.



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WEB COPY 5. Learned Counsel for the respondents 3 & 4, by referring to Rule 55 of the Registration Rules, submitted that if the Registrar is having any doubt with regard to the document, then he can very well refuse to register the document. In this case, the Registrar, after conducting an enquiry, satisfied that there are some mistakes in the registration of documents, has passed the impugned order and therefore, it cannot be questioned by way of this writ petition.

6. This Court considered the rival submissions made on either side and also perused the available materials.

7. Since the petitioner is having an effective alternative remedy by way of a statutory appeal before the District Registrar as per Section 72 of the Registration Act and the petitioner has already filed such appeal before the second respondent on 08.08.2022, this writ petition stands disposed of with liberty to the petitioner to raise all the grounds raised in this petition before the second respondent. The District Registrar, Ramanathapuram, shall dispose



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of the appeal filed by the petitioner, on merits and in accordance with law, after affording due opportunity of hearing to the parties concerned, as expeditiously as possible, preferably within a period of twelve weeks from the date of receipt of a copy of this order.

There shall be no order as to costs.

Index : Yes / No
NCC : Yes / No
gk

23.08.2023

To

- 1.The Joint 1 Sub Registrar,
Ramanathapuram District,
Ramanathapuram.
- 2.The District Registrar,
District Registrar Office,
Ramanathapuram.



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B.PUGALENDHI, J.

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