



**W.P(MD)No.25433 of 2023**

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

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**DATED : 16.11.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P(MD)No.25433 of 2023**

Natarajan

... Petitioner

Vs.

The Sub Registrar,  
Manamadurai,  
Sivagangai District.

... Respondent

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 records of the impugned Refusal Check Slip No.RFL/Manamadurai/7/2023 dated 19.09.2023 on the file of the respondent and quash the same and consequently directing the respondent to receive the register the Settlement deed dated 19.07.2023 executed by him.

For Petitioner : Mr.Selva Aditya  
for Mr.G.Prabhu Rajadurai

For Respondent : Mr.S.RA.Ramachandran  
Additional Government Pleader



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**ORDER**

Heard both sides.

2. The petition mentioned property was purchased by one Ramakrishna Iyer vide sale deed dated 03.08.1965. After his demise, his legal heirs sold the property to one Jegathavalli Ammal vide registered sale deed dated 28.08.1974. The said Jegathavalli Ammal is none other than the petitioner's paternal uncle's wife. She passed away on 31.12.2019. Her husband had predeceased her. They had no issues. The petitioner claims that during her lifetime he took care of her and that therefore the said Jegathavalli Ammal executed an unregistered Will dated 29.06.2018 bequeathing the petition mentioned property in his favour. The petitioner's case is that following the demise of Jegathavalli Ammal, the Will came into force and the petitioner has become the absolute owner of the petition mentioned property.

3. The petitioner executed settlement deed dated 19.07.2023 settling the property in his wife's favour. The document was presented



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for registration. The registering authority however declined to register the document on the ground that the Will in question has not been registered and that therefore the settlement deed can be re-presented after duly probating the Will. To this effect, the refusal check slip was issued. Challenging the same, the present writ petition came to be filed.

4. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He relied on the decision reported in **2021 SCC OnLine Mad 10312 (S.Ravichandran Vs District Registrar & Another)**. He pointed out that a Will does not require to be probated. It is also not a compulsorily registrable document. The reasons set out in the impugned refusal check slip are unsustainable in law. He called upon this Court to set aside the same and grant relief as prayed for.

5. The learned Additional Government Pleader appearing for the registering authority submitted that the impugned communication does not call for interference.



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6. I carefully considered the rival contentions and went through the materials on record.

7. It is true that a Will does not require to be probated. As law presently stands, it is not a compulsorily registrable document also. The question that calls for consideration is whether for this reason I should allow the writ petition as prayed for.

8. Admittedly, the property in question stood in the name of Jegathavalli Ammal. She had passed away on 31.12.2019. The death certificate has been enclosed in the typed set of papers. But the legal heir certificate has not been produced. The petitioner is having two brothers. Even according to the petitioner, Jegathavalli Ammal is having three Class 2 legal heirs including the petitioner herein. The petitioner claims title and ownership over Jegathavalli Ammal's property on the sole ground that the Will executed by her had come into force. A Will, registered or unregistered, has to be proved as per law. Unless the petitioner proves the Will said to have been executed in his favour in the manner known to law, the settlement deed executed by the petitioner



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cannot be entertained by the respondent. Of course, the issue will be different if the other legal heirs of the deceased Jegathavalli Ammal accept the genuineness of the Will propounded by the writ petitioner. In that case, registration can be allowed to go on.

9. I therefore dispose of the writ petition in the following terms: The petitioner is permitted to re-present the settlement deed before the respondent. The petitioner shall also produce the legal heir certificate of the deceased Jegathavalli Ammal. The registering authority will issue notice to all the legal heirs of Jegathavalli Ammal. If other legal heirs do not contest the petitioner's claim on the property based on the Will dated 29.06.2018 the document in question can be registered. If the other legal heirs challenge the genuineness of the Will propounded by the petitioner, the petitioner has to necessarily move the jurisdictional civil Court for relief. Only after the petitioner obtains declaration in his favour over the petition mentioned property, the document can be re-presented for registration. The petitioner is permitted to approach the jurisdictional Tahsildar for issuance of legal heir certificate. The jurisdictional Tahsildar will entertain the petitioner's application, hold enquiry and



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issue certificate within a period of ten weeks thereafter. There shall be  
no order as to costs.

**16.11.2023**

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

To

The Sub Registrar,  
Manamadurai,  
Sivagangai District.



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**G.R.SWAMINATHAN, J.**

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