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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2023

CORAM

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.29847 of 2023
and
WMP(MD)No.25753 of 2023

Muthulakshmi

... Petitioner

v.

The Sub Registrar,
Kamuthi Taluk,
Ramnad District.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the respondent comprised in the refusal check slip dated 28.11.2023 in RFL/Kamudhi/34/2023, quash the same as arbitrary, illegal and unconstitutional and consequently direct the respondent to receive the settlement dated 28.11.2023 executed by the petitioner and register the same in accordance with law.

For Petitioner : Mr.S.Ramesh

For Respondent : Mr.M.Prakash,

Additional Government Pleader



ORDER

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Heard both sides.

2.The petitioner had executed a settlement deed in favour of her elder son, by name, K.S.M.Murugan @ Ramadurai. Registration was refused on the ground that the petitioner has traced her title to a unregistered Will executed by her other son K.S.M.Mohan Kumar. It is further stated that the petitioner has not produced any patta in her name. Challenging the refusal check slip, this writ petition came to be filed.

3.The property belonged to the petitioner's husband Singam @ Muthuramalingam. He passed away in the year 2015 leaving behind the petitioner and his four children. The petitioner has thus 1/5th share in her property. The petitioner's other son Mohan Kumar passed away. Before his demise, he had executed a unregistered Will in favour of the petitioner. A Will does not require registration. However, if its genuineness is contested by the other legal heir, the authority can refuse to act on the same. In this case, the Registrar is bound to issue notice to the wife of Mohan Kumar. If she appears before the registering authority and contests the genuineness of the Will, the registrar shall refuse to register the petition mentioned settlement deed and not



otherwise. Since the petitioner is conveying her undivided share in the property and the one said to have been bequeathed by her son (2/5th share in all), there is no need to insist on mutation of patta. The petitioner is permitted to re-present the document in question. The registering authority shall conduct an enquiry as indicated above. Based on the conclusion of the enquiry, the document in question shall be registered and released subject to the fulfilment of the other usual formalities.

4.This writ petition is disposed of accordingly. No costs. Connected miscellaneous petition is closed.

15.12.2023

Index : Yes / No
Internet : Yes/ No
skm

To

The Sub Registrar,
Kamuthi Taluk,
Ramnad District.



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G.R.SWAMINATHAN, J.

SKM

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