



W.P.No.2636 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.2636 of 2024

and

W.M.P.No.2896 of 2024

V.K.Elango

... Petitioner

versus

The Sub Registrar,
Kinathur,
Gobichettipalayam Taluk,
Erode District.

.....Respondent

Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in Refusal Number RFL/Kunnathur/1/2024, dated 04.01.2024 and quash the same as illegal, arbitrary and without authority of law and direct the respondent to register the Partition Deed presented for registration on 04.01.2024.

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For Petitioner : No appearance
For Respondent : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

Mr.Yogesh Kannadasan, learned Special Government Pleader accepts notice for the respondent. With the consent of both the parties, the writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition has been filed to quash the impugned refusal check slip in RFL/Kunnathur/1/2024, dated 04.01.2024 and consequently direct the respondent to register the Partition Deed, which was presented for registration on 04.01.2024.

3. The main grievance of the petitioner is that the subject properties were inherited to the petitioner and his brother through the Wills

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dated 22.08.2002 and 27.09.2021, respectively executed by his paternal uncle and his father. In order to partition the said properties, they decided to execute a Partition deed. While so, the petitioner presented the Partition Deed along with necessary documents before the Registrar for registration, but the respondent, instead of registering the same, passed the impugned refusal order stating that Wills have to be probated and directed the petitioner to get the Wills probated before the Competent Court. Hence, the petitioner is constrained to file the present writ petition.

4. There is no representation for the petitioner.

5. Heard the learned Special Government Pleader appearing for the respondent and perused the materials available on record.

6. It is a known fact that it is compulsory to register and probate the Will for immovable properties in Chennai province. In the case on hand, the subject properties are situated at Erode District and Wills were also executed in Erode District and hence, the Wills need not to be probated. The

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respondent/Sub Registrar has no authority to refuse to register the document and insist the petitioner to get the Wills probated, which is against law.

Therefore, the impugned refusal check slip passed by the respondent is erroneous and the same is liable to be set aside. The respondent/Sub Registrar is directed to accept the Wills and register the Partition Deed, which was presented for registration on 04.01.2024. If at all, any question is raised regarding the genuineness of the Wills, the parties are at liberty to work out their remedy before the competent Civil Court.

7. In view of the above, the writ petition is allowed and the impugned refusal check slip in RFL/Kunnathur/1/2024, dated 04.01.2024 on the file of the respondent is hereby set aside. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

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Index: Yes/No

Speaking Order : Yes/No

Neutral Citation Case : Yes/No

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To

The Sub Registrar,
Kinathur,
Gobichettipalayam Taluk,
Erode District.

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