



W.P.No.6520 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.6520 of 2024

Udayalakshmi

... Petitioner

Vs.

1. The District Registrar,
Chengalpattu District,
Chengalpattu.

2. The Sub Registrar,
Thiruporur Sub Registrar Office,
Chengalpattu District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the Refusal Check Slip in REF/Thiruporur/8/2024 dated 02.03.2024 on the file of the Joint Sub Registrar II, Dindigul, the respondent No.2 to receive and register the Sale Deed dated 02.03.2024 presented by the petitioner in favour of Ayisha W/o Shahul Hameed in respect of the property, being land in New Natham Survey No.255/8, Old Natham Survey No.109/1A, Thiruporur Village, Thiruporur Taluk, Chengalpattu District to an Extent of 9 1/2 Cents, within a time frame as may be fixed by this Court.

For Petitioner : Mr. Y. Prakash

For Respondents : Mr.B.Vijay
Additional Government Pleader



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ORDER

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This Writ Petition is filed challenging the Refusal Check Slip in REF/Thiruporur/8/2024 dated 02.03.2024, issued by the 2nd respondent herein and direct the 2nd respondent to receive and register the Sale Deed dated 02.03.2024 presented by the petitioner, executed in favour of Ayisha W/o Shahul Hameed in respect of the property, being land in New Natham Survey No.255/8, Old Natham Survey No.109/1A, Thiruporur Village, Thiruporur Taluk, Chengalpattu District to an Extent of 9 1/2 Cents, within a time frame as may be fixed by this Court.

2. The case of the petitioner is that the originally the subject property belongs to one Chinnathambi Konar who is the brother of the petitioner's husband. The said Chinnathambi Konar executed a settlement deed in favour of his wife Perumalammal on 11.02.2008. The said Perumalammal died on 12.03.2015 and since they do not have any children, the said Chinnathambi Konar succeeded to the said property. The Chinnathambi Konar and his wife Perumalammal were taken care by the husband of the petitioner namely Sembukutti Kannan. Hence, out of love and affection, the said Chinnathambi Konar executed a registered Will dated 08.05.2015 bequeathing his entire properties including the



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subject property shown as 13th item in the schedule of the Will, in favour of the petitioner's husband. After the death of the said Chinnathambi Konar on 27.06.2018, the Will came into force and the petitioner's husband Sembukutti Kannan succeeded to the properties of the said Chinnathambi Konar as per the Will dated 08.05.2015. While so, the husband of the petitioner died on 02.09.2019. Thereafter, since the petitioner and her mother-in-law were residing in Tirunelveli and also were in need of money, they intended to sell the subject property which located far away in Thiruporur. Meanwhile, several attempts were made to grab the property of the petitioner. In fact one Sudalai Ammal and others claiming to be the first wife of the said Chinnathambi Konar filed a writ petition in W.P.(MD) No.1115 of 2022, before the Madurai Bench of this Court seeking to cancel the registration of the Will dated 08.05.2015 and this Court by order dated 06.03.2023, rightly dismissed the same holding that the validity of the Will could be questioned only in the Civil Court. Thereafter, on 02.03.2024, the petitioner executed a sale deed dated 02.03.2024 in favour of one Ayisha wife of Shahul Hameed and presented the same before the 2nd respondent for registration, whereas, the 2nd respondent issued the impugned refusal check slip dated 02.03.2024 on



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the ground that the suit in O.S.No.67 of 2023 is pending. Hence, the present Writ Petition is filed.

3. The learned counsel for the petitioner submitted that there is no prohibitory or injunction order passed by the Civil Court. For mere pending of a Civil Case, the Registering Authority cannot refuse to register a document. He also placed reliance of similar orders of this Court in *W.P.No.2463 of 2024 dated 05.02.2024 (R.Selvamani Vs. The District Registrar, Ariyalur)* and *CDJ 2020 MHC 781 (Vadamugam Vellode Nalukarai Nattu Goundergal Sangam Rep. by its President K.Chinnasamy, Erode, Vs. Inspector General of Registration, Erode and another)*

4. The learned Additional Government Pleader appearing for the respondents submitted that already a suit has been filed by one Sudalai Ammal for cancellation of registration of the said Will in O.S.No.67 of 2023 on the file of the District Munsif, Sattur in which the 2nd respondent/Sub Registrar herein is also a party. The petitioner also claims title in the same Will. Neither the Registering Authority nor the Writ Court can decide the title of the parties. Since the competent Civil Court is seized of the matter, there is no perversity in the refusal check slip



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passed by the 2nd respondent.

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5. Heard and perused the materials available on record.

6. Admittedly, one Sudalai Ammal has filed a suit in O.S.No.67 of 2023 on the file of the District Munsif, Sattur in which the petitioner and the 2nd respondent herein have been impleaded as parties to the suit and that the cancellation of registration of the said Will is the subject matter of the said suit. The petitioner is also claiming right and title in the said Will. Neither the Registering Authority nor the Writ Court can decide the title of the parties. Therefore, there is no perversity or impunity in the impugned refusal check slip issued by the 2nd respondent.

7. Though there is no interim/prohibitory order, since the 2nd respondent is also made as a party in the said suit, the citations referred to by the learned counsel for the petitioner is not applicable to the present case on hand. Those cases are entirely different and distinguishable from the present case on hand.

8. With the above observations, this Writ Petition is dismissed. No costs.



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9. However, the petitioner is at liberty to work out his remedy before the Civil Court in the pending suit.

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Index : Yes / No

Neutral Citation Case : Yes/No

To

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Chengalpattu District,
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Thiruporur Sub Registrar Office,
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P.VELMURUGAN. J.

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