



W.P. No.8184 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.8184 of 2024 and

W.M.P. No.9133 of 2024

Muthusamy

... Petitioner

Vs.

The Sub Registrar

Thiruchengode Sub Registrar Office

Namakkal District

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned order of refusal on the file of the respondent, vide Refusal Check Slip bearing Refusal Number:RFL/Thiruchengode/28/2024 dated 04.03.2024 and to quash the same and consequently, direct the respondent to receive, accept and entertain the Partition Deed document presented for registration along with the unregistered Will dated 02.12.1998 and to register the same and return the original document to the petitioner within a time frame as stipulated by this Court.

For Petitioner : Mr.R.Prabakar

For Respondent : Mr.Yogesh Kannadasan

Special Government Pleader



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ORDER

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This Writ Petition is filed seeking to issue a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned order of refusal, on the file of the respondent, vide Refusal Check Slip bearing Refusal Number:RFL/Thiruchengode/28/2024 dated 04.03.2024 and to quash the same and consequently, direct the respondent to receive, accept and entertain the Partition Deed document presented for registration along with the unregistered Will dated 02.12.1998 and to register the same and return the original document to the petitioner, within a time frame as stipulated by this Court.

2. The case of the petitioner is that the petitioner presented a Partition Deed before the respondent for registration on 04.03.2024 but the same was refused to be registered stating that the unregistered Will executed by the petitioner's deceased father in his favour on 02.12.1998, has to be probated before the competent Court of law.



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3. Mr.Yogesh Kannadasan, learned Special Government Pleader, takes notice for the respondent.

4. It is seen from the refusal check slip wherein, the Registrar has insisted the petitioner to get the genuiness certificate/order from the Court about the unregistered Will.

5. It is settled proposition of law that, the properties situated other than the province of Chennai or the unregistered Will executed outside the province of Chennai, need not be registered. Only the unregistered Will, executed within the province of Chennai or the property, situated in Chennai alone need to be probated. In this case, the property is situated outside the Chennai province and the said unregistered Will has also been executed outside the province of Chennai. Therefore, as per law, the said Will need not be probated. Therefore the demand of the Registrar is against Law and the reason stated in the refusal check slip is erroneous.

6. Therefore, the impugned refusal check slip, issued by the respondent is set aside. The respondent is directed to register the document



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presented by the petitioner if, the same is otherwise in order and if there is

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no other legal impediment to register the document, within a period of six weeks from the date of receipt of a copy of this order.

7. With the above observations, this Writ Petition is disposed of at the admission stage itself. Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs.

27.03.2024

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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No



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To

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The Sub Registrar
Thiruchengode Sub Registrar Office
Namakkal District



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P.VELMURUGAN. J.

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