WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **29.04.2024**

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.11666 of 2024 & WMP.No.12760 of 2024

K.Kumar .. Petitioner

Versus

The Joint Sub Registrar II,
Gobichettipalayam, Erode District. .. Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the respondent in Refusal Number RFL/2 Joint Registrar, Gobichettipalayam/ 17/2024, dated 05.04.2024 nd quash the same as illegal, arbitratry and without authority of law and direct the respondent to register the paritition deed presented for registration on 05.04.2024.

For Petitioner : Mr.S.Kaarthick

For Respondent : Mr.P.Anandhakumar
Government Advocate

ORDER

With the consent of both sides, this Writ Petition is taken up for final disposal at the admission stage itself.

https://www.mhc.tn.gov.in/judis

WEB COPY

2. This writ petition is filed to quash the refusal check slip in Refusal Number RFL/2 Joint Registrar, Gobichettipalayam/17/2024, dated 05.04.2024 as illegal, arbitrary and without authority of law and direct the respondent to register the partition deed presented for registration on 05.04.2024.

3. Heard learned counsel for the petitioner and the learned Government Advocate appearing for the respondent and perused the materials available on record.

4. The respondent has refused to register the partition deed on the ground that the Will executed by the paternal grandfather of the petitioner on 05.05.2023 has not been registered. When the petitioner and his cousin brother intended to partition their property and presented the partition deed, the same was refused to be registered by the registering authority. Hence, the present Writ Petition.

5. Though normally counter is required for quashing the impugned Orders, since the Order impugned, perse is illegal and contrary to the settled position of law, this Court is of the view that no counter is required. When the partition deed has been presented for registration, the same was refused to be

https://www.mhc.tn.gov.in/judis

WEB COPY

registered on the ground that the Will has not been registered. The registering authorities do not even know the basic substantive provision of law and they cannot act as an appellate authority or a Court. When registration of the Will itself is optional, the registering authority has no power to refuse to register the partition deed on the ground that the Will has not been registered. In such view of the matter, the Order of the respondent is a clear non application of mind and the said act is highly deprecated and if such Orders are continued to be passed, the concerned officer will be proceeded for contempt of court. Hence, the Order impugned cannot be sustained in the eye of law and the same is liable to be quashed.

6. Accordingly, this Writ Petition is allowed and impugned refusal slip dated 05.04.2024 is quashed. The respondent is directed to register the partition deed within a period of fifteen days from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed. No costs.

29.04.2024

vrc

Index :Yes/No
Internet :Yes/No
Neutral Citation : Yes/No

https://www.mhc.tn.gov.in/judis

WEB COPY

To,

The Joint Sub Registrar II,
Gobichettipalayam, Erode District.

WEB COPY

N. SATHISH KUMAR, J.

vrc

W.P.No.11666 of 2024

29.04.2024

https://www.mhc.tn.gov.in/judis