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W.P.Nos.13090 and 13091 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.05.2024

CORAM

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

W.P.Nos.13090 and 13091 of 2024

W.P.No.13090 of 2024

T.Shanmugam ... Petitioner

..Vs...

The Joint Sub-Registrar No.1,
(District Registrar Cadre),
Office of Sub Registrar,
Chennimalai road, Rangampalayam,
Erode- 638009.

... Respondent

W.P.No.13091 of 2024

1. T.Shanmugam
2. Kaviyarasu ... Petitioners

..Vs...

The Joint Sub-Registrar No.1,
(District Registrar Cadre),
Office of Sub Registrar,
Chennimalai road, Rangampalayam,



W.P.Nos.13090 and 13091 of 2024

Erode- 638009.

...

Respondent

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Prayer in both W.P.'s: Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records and quash the Refusal check slip Refusal Numbers:- RFL/Joint I Sub Registrar Erode/20/2024 and RFL/Joint I Sub Registrar Erode/21/2024 issued by the Respondent herein dated 15.04.2024 and further direct the respondent herein to register the Settlement deed and sale deed respectively.

For Petitioners : Mr.K.Vasanthanayagan
(in both W.P.'s)
For Respondent : Mr.P.Anandakumar
(in both W.P.'s) Government Advocate

COMMON ORDER

The check slips issued by the Sub~Registrar refusing to register the settlement deed and sale deed respectively are under challenge in these writ petitions.

2. While W.P. No.13090 of 2024 has been filed by one Shanmugam



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alone, W.P. No.13091 of 2024 has been filed by the said Shanmugam along with his nephew.

3. Since the issue involved in these writ petitions pertains to refusal to register the settlement deed and sale deed, these writ petitions are decided by this common order. Further, since there is a slight variation in the petitioners, for the sake of clarity, they are referred to on the basis of W.P. No.13091 of 2024.

4. Originally, the land in S.No.200/8 measuring an extent of 1,916 Sq.Feet belonged to the 1st Petitioner's father one Mr.Thangarasu and on 26.02.1995, his father passed away and thereafter, his legal heirs were in possession of the said land. While so, on 19.09.2020, the first petitioner's mother executed a unregistered will in favour of the petitioners. Thereafter, the first petitioner's mother died on 17.12.2020 and the first petitioner executed a settlement deed on 15.04.2024 in favour of his wife Mrs.Susila and it was presented before the respondent for registration. The said document was returned by the respondent on 15.04.2024, on the ground that



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the will, which was the basis for the settlement deed was unregistered and it was not probated too and thus, the unregistered will cannot be relied upon for the purpose of registration of settlement deed. Challenging the said refusal slip, the Writ Petition in W.P.No.13090 of 2024 has been filed.

5. When things stood thus, both the Petitioners executed a sale deed in favour of one Mrs.E.Vijayalakshmi on 15.04.2020, which was also returned on the same ground as stated *supra*, challenging which, W.P.No.13091 of 2024, has been preferred.

6. Probating a will is not compulsory except in the city of Chennai and thus, the Sub Registrar ought not to have refused the registration merely on the ground that the will was not probated. Further, in the present case, the settlement deed and sale deed were presented by duly paying the stamp duty and by following the procedure contemplated in regard thereto.

7. That being the factum, the adjudication of issues relating to unregistered will or probating a will is beyond the scope of the powers



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conferred on the registering authority under the provisions of the Registration Act. Thus, the impugned Check Slips are infirmed.

8. Accordingly, the impugned check slips dated 15.04.2024 are quashed and the respondent is directed to proceed with the registration, if the documents are otherwise in accordance with the provisions of the Registration Act.

6. In fine, the writ petitions stand allowed. No costs.

08.05.2024

arr/av

To:

The Joint Sub-Registrar No.1,
(District Registrar Cadre),
Office of Sub Registrar,
Chennimalai road, Rangampalayam,
Erode- 638009.

A.D.JAGADISH CHANDIRA, J.

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