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WP.No.15245 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.15245 of 2024

K.Nallappan

.. Petitioner

Versus

1. The District Registrar [Salem West],
No.313, 3rd floor, District Registration Office Campus,
Salem Collectorate Building, Kottai Main Road, Salem – 636 001.

2. The Sub Registrar,
Magudanchavadi Sub Registrar Office,
Sankari Taluk, Salem District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned Refusal Check Slip of the second respondent in Refusal No. RFL / Magudanchavadi / 152 / 2023 dated 02.08.2023 and quash the same as illegal and arbitrary and consequently direct the second respondent S.R.O Magudanchavadi, Sankari Taluk, Salem District to Register the Gift Settlement Deed dated 28.07.2023 presented for Registration in Pre-Registration Token Receipt No. TP / 156935237 / 2023 dated 02.08.2023 within a stipulated time as fixed by this Court.

For Petitioner : Mr.N.Vijaya Basker

For Respondents : Mr.L.S.M.Hasan Fizal
Additional Government Pleader

ORDER



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

2. This writ petition is filed to quash the impugned Refusal Check Slip of the second respondent in Refusal No. RFL / Magudanchavadi / 152 / 2023 dated 02.08.2023 as illegal and arbitrary and consequently direct the second respondent S.R.O Magudanchavadi, Sankari Taluk, Salem District to Register the Gift Settlement Deed dated 28.07.2023 presented for Registration in Pre-Registration Token Receipt No. TP / 156935237 / 2023 dated 02.08.2023 within a stipulated time as fixed by this Court.

3. Heard learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

4. It is the case of the petitioner that when he presented a settlement deed, the same has been refused to be registered on the ground that the earlier document, viz., the Will has not been registered. Challenging the same, the present Writ Petition has been filed.



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5. At the outset this Court is of the view that as the very impugned Order itself is against the substantive provisions of law, no counter is required. Such Orders are casually passed in many matters. This Court has seen a number of refusal slips on similar grounds. This Court has clearly held in *Subramani Vs. 1.The Sub-Registrar, Office of the Sub-Registrar, Rasipuram. 2. The Inspector General of Registration, Chennai*, has held that such Orders cannot be passed mechanically and also directed the Inspector General of Registration to issue circular in this regard. Despite various Orders of this Court indicating the position of law with regard to Will, still the authorities are passing similar Orders. The same clearly indicate that the persons holding the post of Sub Registrar have no basic knowledge in law to be posted in such a post to exercise powers under the Registration Act. The officers, who were empowered under the Registration Act, have no fundamental knowledge that the Will need not be registered and registration of the Will is only optional under Section 17 of the Registration Act. Whenever documents are presented based on the basis of earlier Wills, the same has been refused to be registered on the ground that the Will has not been registered. Let the Special Government Pleaders appearing for the Registration Department shall issue proper instructions to the concerned officials in this regard so that no such Orders are passed hereafter. Otherwise, this Court has



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no other option expect to initiate contempt proceedings against the officials concerned.

6. Accordingly, this Writ Petition is allowed. The impugned Order of the second respondent dated 02.08.2023 is quashed. The second respondent is directed to register the settlement deed presented by the petitioner within a period of fifteen days from the date of receipt of a copy of this Order. No costs.

14.06.2024

vrc

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

To,

1. The District Registrar [Salem West],
No.313, 3rd floor, District Registration Office Campus,
Salem Collectorate Building, Kottai Main Road, Salem – 636 001.
2. The Sub Registrar,
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N. SATHISH KUMAR, J.

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