

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **14.06.2024**

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.15261 of 2024

S.Jayaram

.. Petitioner

Versus

1. The District Registrar [Salem West],
No.313, 3rd floor, Collectorate Building,
O/o.District Collector Office, Salem – 636 001.

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

.. Respondents

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 relating to the impugned Refusal Check Slip of the 2nd Respondent in Refusal No.RFL / Magudanchavadi / 156/ 2023 dated 04.08.2023 and quash the same as illegal and arbitrary and consequently direct the 2nd respondent S.R.O Magudanchavadi Sankari Taluk Salem District to Register the Gift Settlement Deed dated 04-08- 2023 presented for Registration in pre-Registration Token Receipt No.TP /157228105/ 2023 dated 04-08-2023 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

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 / 156/ 2023 dated 04.08.2023 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 04-08- 2023 presented for Registration in pre-Registration Token Receipt No.TP /157228105/ 2023 dated 04.08.2023 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. The case of the writ petitioner is that when he presented a gift settlement deed executed in favour of his wife before the second respondent for registration, the same was refused to be registered on the ground that the Will executed by the father of the petitioner has not been registered. Challenging the said Order, the present Writ Petition has been filed.

5. A perusal of the impugned Order clearly indicate that the same is against the fundamental principles of law and hence, no counter is required. At the outset, this Court is of the view that as far as the Will is concerned, the registration of a Will is optional. The property can be bequeathed by a Will and the Will can be either registered or unregistered one. Since, the Will being document which also convey title of the property, after the death of the testator, the authority cannot insist that the Will has to be a registered one. Such a finding is nothing but perverse and non application of mind. In such view of the matter, the Order impugned has to be quashed.

7. Accordingly, this Writ Petition is allowed and the impugned Order dated 04.08.2024 passed by the second respondent stands quashed. The

second respondent is directed to register the Gift Settlement Deed dated 04.08.2023 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, Collectorate Building,
O/o.District Collector Office, Salem – 636 001.
2. The Sub Registrar,
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Sankari Taluk, Salem District.

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N. SATHISH KUMAR, J.

VRC

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