



WEB COPY



WP.No.16611 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.16611 of 2024 & WMP.No.18221

Ammasaikutty

.. Petitioner

Versus

The Sub Registrar,
Thingalur, 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/Thingalur/27/2024, dated 24.05.2024 and quash the same as illegal arbitrary and without authority of law and direct the respondent to register the settlement deed presented for registration on 23.05.2024.

For Petitioner : Mr.A.Chandrasekaran

For Respondent : Mr.M.Shajahan
Special Government Pleader

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/jud2> This writ petition is filed to quash the impugned Refusal Number



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RFL/Thingalur/27/2024, dated 24.05.2024 as illegal arbitrary and without authority of law and direct the respondent to register the settlement deed dated presented for registration on 22.05.2024.

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

4. The case of the writ petitioner is that his father executed a Will in his favour on 09.09.1998 and the petitioner is enjoying the property absolutely. While so, when the petitioner intended to settle the property in favour of his son and when he presented the settlement deed before the 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. It is relevant to note 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



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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.

6. Accordingly, this Writ Petition is allowed and the impugned Order dated 24.05.2024 passed by the second respondent stands quashed. The second respondent is directed to register the Settlement Deed dated 22.05.2024 presented by the petitioner within a period of fifteen days from the date of receipt of a copy of this Order. No costs. Consequently, connected miscellaneous petition is closed.

27.06.2024

vrc

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

To,

The Sub Registrar,
Thingalur, Erode District.



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N. SATHISH KUMAR, J.

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