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W.P.No.28158 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2024

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THE HONOURABLE MS. JUSTICE P.T. ASHA

W.P.No.28158 of 2024

E.Mannan

...Petitioner

Vs.

The Sub Registrar,
Sub Registration Office,
Magalampatti,
Virudhachalam,
Cuddalore District.

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, directing to call for the record pertaining to the impugned refusal check slip order bearing Refusal Number: RFL/Mangalampettai/19/2024 dated 03.09.2024 passed by the respondent is illegal and quash the same, subsequently, mandamus directing the respondent to register the document bearing Temporary No.TP/191504642/2024.

For Petitioner : Mr.G.Ranganathan

For Respondent : Mr.T.Chezhiyan,

Additional Government Pleader

ORDER



W.P.No.28158 of 2024

WEB COPY

Challenging the refusal check slip issued by the respondent in its impugned order dated 03.09.2024, the petitioner is before this Court.

2.The petitioner had executed a Will in favour of one Muruganantham in respect of an extent of 4 acres in S.No.410/3, Pullur Village, Virudhachalam Taluk, Cuddalore District. The said Will was presented for registration before the respondent on 03.09.2024, the 2nd respondent who had assigned a temporary number and fixed date and time for registration had rejected the same without affording any opportunity to the petitioner to submit his case. Aggreived by that the petitioner is present before this Court.

3.Heard the learned counsels on either side.

4.The rejection is on two grounds:

- a.The parent document had not been produced and
- b. Other reasons.

5.The document which has been submitted for registration is a



W.P.No.28158 of 2024

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Will. The testator has in the Will traced his title to the property and from a reading of impugned order, it is seen that the petitioner has submitted the earlier documents. Therefore, the 1st ground on which the rejection has been made cannot be sustained. Further, even assuming that the original document has not been filed, the Court has time and again held that the Registrar cannot refuse registration on the ground of non production of the parent document.

6.The next ground on which the rejection is effected is under the head 'other reasons' which is that the death certificate and the legal heirship certificate which is annexed to the earlier document does not correlate to the subject Survey number. This Court is at a loss to understand as to how the officer concerned namely, the respondent herein would expect the description of property to be set out in the death certificate and legal heirship certificate so as to correlate with the earlier document. Further, the rejection on the ground that there are several encumbrances reflected in the certificate is also without any basis. However, while hearing the arguments a new plea was taken by Mr.T. Chezhan, learned Additional Government Pleader that the Will does not make any reference to a provision for the daughter.

7. A perusal of the Will clearly shows that the petitioner has referred



W.P.No.28158 of 2024

WEB COPY

to his sister in the Will and has bequeathed only the property that he has obtained as a legal heir from his parents. Therefore, it only shows that whatever is the share of the petitioner, the Will would only be valid to that extent. The registering authority cannot examine the possible objections to the document before it. More particularly, a Will does not require to be registered and the only requirement is as contemplated under Section 68 of the Evidence Act and 63(c) of the Indian Succession Act. Therefore, the objection stated by the respondent for non registering the Will is absolutely baseless. Accordingly, the Writ petition is allowed, the impugned refusal check slip is set aside and 2nd respondent is directed to register the Will within a period of one week from the date of representation of the Will by the petitioner along with a copy of this order.

8. Accordingly, writ petition is allowed. No costs.

06.11.2024

vsn

To

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W.P.No.28158 of 2024

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Sub Registration Office,
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P.T. ASHA, J.

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